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Presidential Documents

Title 3—

The President

Executive Order 12567 of October 2, 1986

Inter-American Investment Corporation, Commission for the Study of Alternatives to the Panama Canal, and Pacific Salmon Commission

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 1 of the International Organizations Immunities Act (22 U.S.C. 288), Reorganization Plan No. 4 of 1965, and the Inter-American Investment Corporation Act (22 U.S.C. 283aa–283ii), and having found that the United States participates in the Commission for the Study of Alternatives to the Panama Canal pursuant to the Panama Canal Treaty of 1977 and the Panama Canal Act (22 U.S.C. 3619) and participates in the Pacific Salmon Commission pursuant to the Pacific Salmon Treaty and the Pacific Salmon Treaty Act (16 U.S.C. 3631 *et seq.*), it is hereby ordered as follows:

Section 1. The Inter-American Investment Corporation, in which the United States participates pursuant to the Inter-American Investment Corporation Act and the Agreement Establishing the Inter-American Investment Corporation, is hereby designated as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act. This designation is not intended to abridge in any respect the privileges and immunities that such organization has acquired or may acquire by treaty or congressional action. This designation shall not affect in any way the applicability of Sections 3 and 9 of Article VII of the Agreement.

Sec. 2. The functions vested in the President by Section 210 of the Inter-American Investment Corporation Act are hereby delegated to the Secretary of the Treasury.

Sec. 3. The Commission for the Study of Alternatives to the Panama Canal is hereby designated as a public international organization entitled to the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act. This designation is not intended to abridge in any respect the privileges, exemptions, or immunities that such organization may have acquired or may acquire by international agreements or by congressional action.

Sec. 4. The Pacific Salmon Commission is hereby designated as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act. This designation is not intended to abridge in any respect the privileges, exemptions, or immunities that such organization may have acquired or may acquire by international agreements or by congressional action.

Sec. 5. Executive Order No. 11269, as amended, is further amended by deleting "and African Development Bank" and adding ", African Development Bank, and Inter-American Investment Corporation," in Sections 2(c), 3(d), and 7, respectively.

Ronald Reagan

THE WHITE HOUSE,
October 2, 1986.

[FR Doc. 86-22725
Filed 10-2-86; 4:35 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12568 of October 2, 1986

Employment Opportunities for Military Spouses at Nonappropriated Fund Activities

By the authority vested in me as President by the laws of the United States of America, including section 301 of Title 3 of the United States Code, it is ordered that the Secretary of Defense and, as designated by him for this purpose, any of the Secretaries, Under Secretaries, and Assistant Secretaries of the Military Departments, are hereby empowered to exercise the discretionary authority granted to the President by subsection 806(a)(2) of the Department of Defense Authorization Act of 1986, Public Law No. 99–145, to give preference in hiring for positions in nonappropriated fund activities to qualified spouses of members of the Armed Forces stationed in the same geographical area as the nonappropriated fund activity for positions in wage grade UA–8 and below and equivalent positions and for positions paid at hourly rates.

Ronald Reagan

THE WHITE HOUSE,
October 2, 1986.

[FR Doc. 86–22726
Filed 10–2–86; 4:36 pm]
Billing code 3195–01–M

Rules and Regulations

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Compania Panamena De Aviacion S.A.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Compania Panamena de Aviacion S.A. (COPA) to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: September 15, 1986.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536. Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with Compania Panamena de Aviacion S.A. (COPA), on September 15, 1986, to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportation lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.3 [Amended]

2. In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by: Adding in alphabetical sequence, Compania Panamena de Aviacion S.A. (COPA).

Dated: September 25, 1986.

Harriet B. Marple,

Acting Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86–22558 Filed 10–3–85; 8:45 am]
BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 21, and 73

Changes in Telephone Numbers for Uranium Recovery Field Office

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to indicate changes in the commercial and FTS telephone numbers for the NRC's Region IV Uranium Recovery Field Office located in Denver, Colorado. These amendments are necessary to inform the public of these administrative changes to NRC regulations.

EFFECTIVE DATE: October 6, 1986.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7086.

SUPPLEMENTARY INFORMATION: Recently, the commerical and FTS telephone numbers for the NRC's Region IV Uranium Recovery Field Office were changed. This notice is being published to inform the public of the changes in the telephone numbers.

Because these amendments deal with agency practice and procedures, the notice provisions of the Administrative Procedure Act do not apply to 5 U.S.C. 553(b)(A). The amendments are effective upon publication in the **Federal Register.** Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing solely with agency procedures.

Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection rquirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.)

List of Subjects

10 CFR Part 20

Byproduct material, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

10 CFR Part 21

Nuclear power plants and reactors, Penalty, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 73

Hazardous materials—transportation, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1975, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Parts 20, 21, and 73.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for Part 20 continues to read as follows:

Authority: Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Appendix D—[Amended]

2. In Appendix D, the commercial telephone number for the NRC Region IV Uranium Recovery Field Office (Denver, Colorado) is changed from (303) 234–7232 to (303) 236–2805 and the FTS telephone number is changed from (FTS) 234–7232 to (FTS) 776–2805.

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

3. The authority citation for Part 21 continues to read as follows:

Authority: Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 21.2 [Amended]

4. In footnote 1 to § 21.2, the commercial telephone number for the NRC Region IV Uranium Recovery Field Office (Denver, Colorado) is changed from (303) 234–7232 to (303) 236–2805.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

5. The authority citation for Part 73 continues to read as follows:

Authority: Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Appendix A—[Amended]

6. In Appendix A, the commercial telephone number for the NRC Region IV Uranium Recovery Field Office (Denver, Colorado) is changed from (303) 234–7232 to (303) 236–2805 and the FTS telephone number is changed from (FTS) 234–7232 to (FTS) 776–2805.

Dated at Bethesda, Maryland, this 22nd day of September 1986.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 86–22596 Filed 10–3–86; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 569a

Federal Savings and Loan Insurance Corp.; Powers and Duties as Receiver

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: In order to eliminate the antiquated procedures that a receiver of a State-chartered Federal Savings and Loan Insurance Corporation ("FSLIC")-insured institution must follow prior to effectuating a sale of receivership property, the Federal Home Loan Bank Board ("Board") is amending 12 CFR 569a.6(c)(3) in order to eliminate the text following the first sentence, which requires the receiver to publish a notice of intent to sell certain property, solicit objections comments or higher bids, report the same to the Board, etc.

EFFECTIVE DATE: October 6, 1986.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Hayes, Deputy General Counsel of FSLIC ((202)—377–6428), or Kathy Norcross, Attorney ((202)–377–6383), Office of the General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Existing regulations, codified in the Rules and Regulations for the Federal Savings and Loan System, provide for the powers of conservators and conduct of conservatorships for federal associations in Part 548, and the powers of receivers and conduct of federal association receiverships in Part 549. Part 569a of the Rules and Regulations for the Federal Savings and Loan Insurance Corporation now cover the appointment and conduct of the FSLIC as receiver of a State-chartered association appointed by the Board pursuant to section 406(c)(2) of the National Housing Act of 1933 as amended ("NHA"). Prior to the expiration of certain provisions of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97–320, 96 Stat. 1469 ("Garn-St Germain Act"), on September 15, 1986 when the FSLIC was appointed as receiver for a State-chartered association pursuant to section 406(c)(1)(B) NHA, the Board had by order and pursuant to section 406(c)(1)(B)(i)(II) directed the receivership to operate under Part 549. Owing to the expiration of certain Provisions of the Garn-St Germain Act, however, a receiver for a State-chartered institution that is appointed by the Board under sections 406(c)(2) must operate pursuant to 12 CFR 569a *et seq.* Those receivers appointed pursuant to section 406(c)(1)(B) will of course continue to operate under Part 549.

The amendment to § 569a.6(c)(3) accomplished by this rule deals with the conduct of receiverships for State-chartered associations established under section 406(c)(2) NHA, and does not disturb the framework for federal associations in Part 549. The amendment serves to update § 569a.6(c)(3) to bring it in line with the corresponding regulations for federal associations and with the Board's proposed receivership regulations. Specifically, the amendment would eliminate the cumbersome sales procedures contained in existing § 569a.6(c)(3) that must be satisfied before the receiver may dispose of any asset over $25,000.00. These restrictions, and the other asset disposition procedures imposed by existing regulations, unnecessarily burden the receiver's ability to deal with receivership assets in the best interests of the receivership estate.

The notice provisions of 12 CFR 508.12 have been observed in connection with this rule. The Proposed Rule for Conservators and Receivers, published in the **Federal Register** on November 27, 1985 (50 FR 48970) expressly stated that the Proposed Rule for Conservators and Receivers would eliminate the cumbersome sales procedures now required by § 569a.6(c)(3). 50 FR 48976. Although the Proposed Rule would eliminate 12 CFR 569a.6(c)(3) completely and a receiver of a State-chartered institution would be required to look to new § 569c.6 to determine its powers and duties, the **"SUPPLEMENTARY INFORMATION"** preceding the Proposed Rule specifically stated that "the cumbersome sales procedures set forth in existing § 569a.6(c)(3), which must be satisfied before the receiver may dispose of any significant assets, would be eliminated."

The Proposed Rule for Conservators and Receivers was published in the **Federal Register** on November 27, 1985. Comments were requested by January 22, 1986, and comments were received through July, 1986. Although 19 comment

letters were received, not one voiced an objection to or expressed an opinion on the elimination of the sales procedures now required by § 569a.6(c)(3).

Because the Proposed Rule for Conservators and Receivers contains a provision substantially similar to the amendment to § 569a.6(c)(3) set forth below, the **"SUPPLEMENTARY INFORMATION"** expressly stated that the sales procedures now mandated by § 569a.6(c)(3) would be eliminated, and no comments were received on this specific point, the Board finds that the notice and comment procedure prescribed by 5 U.S.C. 552(b) (1982) and 12 CFR 508.12 (1986) has been observed.

Furthermore, the Board finds that there is good cause that the 30-day delay of the effective date of an amendment to a regulation otherwise required by § 508.14 should not apply to the amendment of § 569a.6(c)(3) set forth below. Specifically, in that certain temporary provisions of the Garn-St Germain Act have expired, a receiver appointed by the Board for a State-chartered insured institution under section 406(c)(2) must derive its powers and duties from § 569a *et seq.* Since that regulation requires a Board appointed receiver for a State-chartered institution to comply with burdensome procedures prior to effecting a sale of receivership property, such a receiver will be stymied in its attempt to dispose of receivership assets in a manner which is quick, efficient, and which results in the maximum benefit to the receivership. Unless the amendment takes place immediately, such a receiver may be unable to act in the best interests of creditors and the receivership. Therefore, good cause exists to specify that this amendment will take effect upon publication in the **Federal Register.**

List of Subjects in 12 CFR Part 569a

Savings and loan associations.

Accordingly, the Board hereby amends Part 569a, Subchapter D, Chapter V, Title 12 Code of Federal Regulations, as set forth below.

Subchapter D—Federal Savings and Loan Insurance Corporation

PART 569a—RECEIVERS FOR INSURED INSTITUTIONS OTHER THAN FEDERAL ASSOCIATIONS

1. The authority citation for Part 569a continues to read as follows:

Authority: Secs. 2, 5, 48 Stat. 128, 132 as amended (12 U.S.C. 1462, 1464); Secs. 401–403, 405–407, 48 Stat. 1255–1257, 1259–1260, as amended (12 U.S.C. 1724–1726, 1728–1730); Sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

2. Amend § 569a.6 by revising paragraph (c) to read as follows:

§ 569a.6 Powers and duties as receiver.

* * * * *

(c) *Assets, claims and contracts.* The Receiver shall have power to:

(1) Sell for cash or on terms, exchange, or otherwise dispose of, in whole or in part, any or all of the assets and property of the institution, real, personal and mixed, tangible and intangible, of any nature, including any mortgage, deed of trust, chose in action, bond, note, contract, judgment, or decree, share or certificate of share of stock or debt, owing to such institution or the Receiver.

(2) Surrender, abandon, and release any choses in action, or other assets or property of any nature, whether the subject of pending litigation or not, and settle, compromise, modify, or release, for cash or other consideration, claims and demands in favor of the institution or the Receiver.

(3) Reject or repudiate any lease or contract which it considers burdensome.

* * * * *

§ 569a.1 and § 569a.7 [Amended]

3. Amend § 569a.1 and § 569a.7 by removing the authority citations located at the end of the sections.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 86–22497 Filed 10–3–86; 8:45 am]

BILLING CODE 6720–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Revision 2; Amdt. 44]

Delegations of Authority To Conduct Program Activities in Field Offices; Business Credit and Assistance

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This final rule reflects unlimited 8(a) authority for the Washington District Director and excludes this individual from needing a certificate of appointment to purchase goods or services or enter into contracts for the purpose of 8(a) contracting activity.

EFFECTIVE DATE: October 6, 1986.

FOR FURTHER INFORMATION CONTACT: Elizabeth M. Zaic, Deputy Director, Office of Administrative Services, Small Business Administration, 1441 L Street, NW., Washington, DC. 20416, Telephone No. (202) 653–6623.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 are not required and this amendment to Part 101 is adopted without resort to those procedures.

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies); Administrative practice and procedures; Organization and functions (Government agencies).

PART 101—[AMENDED]

For the reason set forth in the preamble and pursuant to authority in section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, 13 CFR 101.3–2 is amended as set forth below:

1. The authority citation for 13 CFR 101.3–2 continues to read as follows:

Authority: Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958 72 Stat. 689, as amended.

* * * * *

§ 101.3–2 [Amended]

1a. In 13 CFR 101.3–2, Part VII, Section C is revised to read as follows:

Part VII—* * *

Section C—Section 8(a)(1)(A) Contracting Authority (SBAct)

1. To enter into the contracts on behalf of the Small Business Administration with the United States Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, services or materials to the Government or to perform construction work for the Government subject to the following:

Each individual who is warranted to purchase goods or services or enter into contracts has dollar limit inherent in the certificate of appointment. That certificate of appointment limit determines the amount limit that person may procure. Regional Administrators and the Washington District Director, as heads of procurement activities, are exempt from this requirement for a certificate of appointment.

2. Subcontracting to arrange for the performance of such procurement contracts as stated in paragraph 1 above by negotiating or otherwise letting subcontracts to socially and economically disadvantage small business concerns for the construction work, services or the manufacture, supply or assembly of such articles, equipment, supplies or materials or parts thereof, or services or processing in connection therewith or such management services as may be necessary to enable the Small Business Administration to perform such contracts, subject to the following:

Each individual who has a certificate of appointment to purchase goods or services or enter into contracts has a dollar limit inherent in the certificate of appointment. That certificate of appointment determines the amount that person may procure. Regional Administrators and the Washington District Director have no dollar limit under this section.

3. To certify to any Officer of the Government having procurement powers that the Small Business Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer, subject to following:

Each individual who has a certificate of appointment to purchase goods or services or enter into contracts has a dollar limit inherent in the certificate of appointment. That certificate of appointment limit determines the amount that person may procure. Regional Administrators and the Washington District Director have no dollar limit under this section.

Dated: November 29, 1986.

Charles L. Heatherly

Acting Administrator.

[FR Doc. 86-22543 Filed 10-3-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-201-AD; Amdt. 39-5434]

Airworthiness Directives: McDonnell Douglas Model DC-8 Series -10, Through -50, -61, -61F, -71 and -71F Airplanes, Equipped With Left and/or Right Wing Front Spar Lower Cap, Part Numbers 5597838-1 and -2,

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections and repair, as necessary, of the left and right wing front spar lower caps, between stations Xfs=515.000 and Xfs=526.760 on certain McDonnell Douglas model DC-8 Series -10 thru -50, -61, -61F, -71 and -71F airplanes. This amendment is prompted by reports of fatigue cracking on the spar caps of two airplanes. This condition, if not corrected, could result in loss of structural integrity of the wing.

EFFECTIVE DATE: October 20, 1986.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855, Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. David Y.J. Hsu, Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6319.

SUPPLEMENTARY INFORMATION: On August 28, 1986, the FAA was notified by McDonnell Douglas that, while investigating a fuel leak on a DC-8-61, a crack was found on the wing front spar lower cap, which was approximately 95% severed. The crack originated at an attach hole in the forward tang of the front spar lower cap and was located at Station Xfs=522, along with other cracks in both the adjacent lower skin panel and stringer number 64. The affected area is located inboard of the outboard engine. The airplane had accumulated approximately 46,093 flight-hours and 18,00 landings. All cracks are attributed to metal fatigue.

There has been a previous case reported, where a spar cap fatigue crack was found in the same area on a DC-8-51 airplane with 48,942 flight-hours and 20,000 landings. That incident prompted the release of McDonnell Douglas DC-8 Service Bulletin 57-90, dated October 3, 1983, which provided instructions for inspection, modification, and repair, as necessary to prevent fatigue cracking.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires repetitive inspections for fatigue cracks found in the left and right wing front spar lower cap, and repair, as necessary, in accordance with Service Bulletin previously mentioned. This AD also provides for terminating action for the repetitive inspection requirements by modification of attach holes in accordance with the service bulletin to prevent fatigue cracking in original type design spar caps.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends §39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-8 series -10 thru -50, -61, -61F, -71 and -71F airplanes with left and/or right wing front spar lower cap Part Numbers 5597838-1, -2, not modified in accordance with McDonnell Douglas DC-8 Service Bulletin 57-90, dated October 3, 1983, certificated in any category. Compliance required as indicated.

To prevent the loss of structural integrity of the left and/or right wing due to metal fatigue failure of the front spar lower cap, prior to the accumulation of 30,000 flight-hours or within 200 flight-hours after the effective date of this AD, whichever occurs later, accomplish the following, unless already accomplished within the last 3,400 flight-hours:

A. Visually or eddy current inspect left and right wing front spar lower cap, P/N's 5597838-1, -2, between Stations Xfs=515.000 and Xfs=526.760 for cracks in accordance with paragraph 2.B. of McDonnell Douglas DC-8 Service Bulletin 57-90, dated October 3, 1983, or later FAA-approved revisions.

B. If no crack is found, accomplish repetitive inspections on the spar cap in accordance with paragraph A. of this AD, at intervals not to exceed 3,600 flight-hours or one calendar year, whichever occurs first.

C. If crack(s) are found, before further flight:

1. For cracks within repairable limits, as defined by paragraph 2.B. of DC-8 Service

Bulletin 57–90, repair cracked spar cap in accordance with paragraph 2.B. of that service bulletin.

2. For cracks greater than those specified by the above service bulletin, repair in a manner approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Modification of the attach holes in the foward tang of the front spar lower cap in accordance with paragraph 2.B. of DC–8 Service Bulletin 57–90 constitutes terminating action for the repetitive inspection requirements in paragraph B. of this AD.

E. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–L65 (54–60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective October 20, 1986.

Issued in Seattle, Washington, on September 26, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–22501 Filed 10–3–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–ASW–30; Amendment 39–5431]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Model SA 365 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which reduces the service life of main rotor head sleeves and requires inspections of sleeves on Aerospatiale Model SA 365 series helicopters. The AD is prompted by a report of a cracked sleeve in a Model SA 365 helicopter. This condition, if undetected, could result in failure of the main rotor head and loss of control of the helicopter.

EFFECTIVE DATE: October 24, 1986.

ADDRESSES: The applicable service documents may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attn: Customer Support.

A copy of each of the service documents is contained in the Rules Docket, Office of the Regional Counsel, FAA, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: John Varoli, Manager, Aircraft Certification Office, FAA, Europe Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, APO NY 09667, telephone 513.38.30; or R.T. Weaver, Rotorcraft Standards Staff, ASW–110, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624–5122.

SUPPLEMENTARY INFORMATION: There has been a report of a crack in the main rotor head sleeve of an Aerospatiale Model SA 365C helicopter. This condition, if not detected, could cause failure of the main rotor head and loss of control of the helicopter. Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires inspection of the sleeve for cracks and replacement, as necessary, on Aerospatiale SA 365 series helicopters and reduction of the sleeve time-in-service life as follows: Model SA 365C, C1, C2, and C3 sleeves are reduced to 2,000 hours' time in service and Model SA 365N and N–1 sleeves are reduced to 1,000 hours' time in service.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Societe Nationale Industrielle Aerospatiale (SNIAS): Applies to all Aerospatiale Model SA 365 series helicopters certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent failure of the main rotor head sleeves, accomplish the following:

(a) For those helicopters exhibiting a severe tracking defect, inspect the main rotor head sleeves as follows before further flight:

(1) Remove main rotor blades and visually inspect the sleeves for cracks, delaminations, or separated bushes; and

(2) Replace any sleeves found damaged with serviceable sleeves.

(b) For Model SA 365C, C1, C2, and C3 helicopters, replace Part Numbers (P/N's) 365A.31.1831.00, .01, .02, .03, and 365A31.1851.00 and .01 main rotor head sleeves as follows:

(1) For sleeves which have 1,900 or more hours' time in service on the effective date of this AD, replace the sleeves within 100 hours' time in service; and

(2) For sleeves which have less than 1,900 hours' time in service on the effective date of this AD, replace the sleeves before they reach 2,000 hours' time in service.

(c) For Model SA 365N and N–1 helicopters, replace P/N's 365A31.1829.02 and .03 and 365A31.1828.00 and .01 main rotor head sleeves as follows:

(1) For sleeves which have 900 or more hours' time in service on the effective date of this AD, replace the sleeves within 100 hours' time in service; and

(2) For sleeves which have less than 900 hours' time in service on the effective date of this AD, replace the sleeves before they reach 1,000 hours' time in service.

(d) An alternate method of compliance with this AD, which provides an equivalent level of safety, may be used when approved by the Manager, Aircraft Certification Division, Federal Aviation Administration,

P.O. Box 1689, Fort Worth, Texas 76101, or by the Manager, Aircraft Certification Office, AEU-100, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

(e) In accordance with FAR 21.197 and 21.199, flight is permitted to a base where the maintenance required by this AD may be accomplished.

Note.—Aerospatiale Telex Service SA 365C Nos. 01.18 and 01.19 and Aerospatiale Telex Service SA 365N-FS No. 01.18 pertain to this subject.

This amendment becomes effective October 24, 1986.

Issued in Fort Worth, Texas, on September 24, 1986.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 86-22502 Filed 10-3-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-ASW-19]

Revision of Transition Area; Junction, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the transition area at Junction, TX. The intended effect of this revision is to provide the necessary amount of controlled airspace for aircraft executing standard instrument approach procedures (SIAP's) to the Kimble County Airport, Junction, TX. This action is necessary since a review of existing controlled airspace at Junction, TX, revealed that there was more controlled airspace than needed in some areas and less than required in other areas. This action will correct this situation by reducing the size of the existing transition area northwest of the Junction VORTAC and by enlarging the transition area east and south of the Kimble County Airport to accommodate the type aircraft now utilizing the airport under instrument flight rules (IFR) conditions.

EFFECTIVE DATE: 0901 UTC, February 12, 1987.

FOR FURTHER INFORMATION CONTACT: David J. Souder, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101, telephone (817) 624-5535.

SUPPLEMENTARY INFORMATION:

History

On July 15, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the Junction, TX, transition area (51 FR 25573).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revises the 700-foot transition area at Junction, TX. A recently developed RNAV SIAP to Kimble County Airport prompted a review of the existing controlled airspace, designated transition area. The development of the RNAV RWY 17 SIAP requires modification of the existing transition area; however, coincident with this action, there will be a reduction to the transition area northwest of the Junction VORTAC. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft operating under IFR and other aircraft operating under Visual Flight Rules (VFR).

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas, Etc.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

Junction, TX [Revised]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Kimble County Airport (latitude 30°30'30" N., longitude 99°46'00" W.).

Issued in Fort Worth, TX, on September 23, 1986.

Richard L. Failor,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 86-22503 Filed 10-3-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-ASW-18]

Revision of Transition Area; Monahans, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will revise the transition area at Monahans, TX. The intended effect of this revision is to provide the necessary controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Roy Hurd Memorial Airport, Monahans, TX, utilizing the new Monahans nondirectional radio beacon (NDB). This action is necessary to ensure segregation of aircraft operating to and from the airport under the instrument flight rules (IFR) conditions and other aircraft under visual flight rules (VFR).

EFFECTIVE DATE: 0901 UTC, February 12, 1987.

FOR FURTHER INFORMATION CONTACT: David J. Souder, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101, telephone (817) 624-5566.

SUPPLEMENTARY INFORMATION:

History

On July 15, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise

the Monahans, TX, transition area (51 FR 25571).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revises the 700-foot transition area at Monahans, TX. The establishment of a new SIAP, utilizing the Monahans NDB, requires designation of additional controlled airspace, designated transition area, at Monahans, TX. The intended effect of this action is to ensure segregation of aircraft operating under IFR conditions and other aircraft operating under VFR.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

Monahans, TX [Revised]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11 69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Roy Hurd Memorial Airport (latitude 31°34'55" N., longitude 102°54'30" W.) and within 3.5 miles each side of the 314-degree bearing from the Monahans NDB (latitude 31°34'41" N., longitude 102°54'19" W.) extending from the 8.5-mile radius area to 11 miles northwest of the NDB.

Issued in Forth Worth, TX, on September 23, 1986.

Richard L. Failor,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 86–22504 Filed 10–3–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 86–ASW–20]

Designation of Transition Area; Ballinger, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will designate a transition area at Ballinger, TX. The intended effect of this action is to provide adequate controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Bruce Field Airport, Ballinger, TX, utilizing the new Ballinger nondirectional radio beacon (NDB). This action is necessary to ensure segregation of aircraft operating to and from the airport under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR). Coincident with this action, the airport status will change from VFR to IFR.

EFFECTIVE DATE: 0901 UTC, February 12, 1987.

FOR FURTHER INFORMATION CONTACT: David J. Souder, Airspace and Procedures Branch (ASW–535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624–5535.

SUPPLEMENTARY INFORMATION:

History

On July 15, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Ballinger, TX, transition area (51 FR 25572).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations changes the airport status from VFR to IFR and lowers the floor of controlled airspace to 700 feet above the surface within a designated transition area encompassing the Bruce Field Airport, Ballinger, TX. The purpose of this transition area is to ensure segregation of aircraft operating under IFR conditions from others operating under VFR.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

Ballinger, TX [New]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Bruce Field Airport (latitude 31°40'30"

N., longitude 99°58'30" W.) and within 3 miles each side of the 186-degree bearing from the Ballinger NDB (latitude 31°40'48.8" N., longitude 99°58'27.9" W.) extending from the 7-mile radius area to 9 miles south of the NDB.

Issued in Fort Worth, TX, on September 23, 1986.

Richard L. Failor,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 86-22505 Filed 10-3-86; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 12

Reparation Proceedings; Double Bond Filing and Entitlement to Waiver

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: On July 9, 1986, the Commission issued its final order in *Adham v. Drexel Burnham Lambert,* [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶23,156, which, *inter alia,* confirmed a previous pronouncement that the filing of the double bond (or of evidence of entitlement to a waiver thereof) by a nonresident reparation complainant, required by section 14(c) of the Commodity Exchange Act, is jurisdictional, and therefore must occur within the two year limitations period established by section 14(a) of the Act. Section 12.13(b)(4) of the Commission's reparation rules currently provides that the double bond requirement of section 14(c) of the Act must be satisfied before a formal reparation proceeding is commenced, but does not explicitly state that the bond must be filed within two years after the nonresident complainant's cause of action accrued. The Commission is amending §12.13(b)(4) to clarify the provisions of that regulation in light of *Adham* and to make clear that the complaint is deemed filed only when received by the Proceedings Clerk.

DATES: Effective October 6, 1986. Interested persons wishing to comment may submit comments on or before December 5, 1986.

ADDRESS: Comments may be submitted to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Attention: Office of the Secretariat. Telephone: (202) 254-6314.

FOR FURTHER INFORMATION CONTACT: James T. Kelly, Assistant Chief, Opinions Section, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-7110.

SUPPLEMENTARY INFORMATION:

I. Background

On February 14, 1984, the Commission adopted §12.13(b)(4) of its rules relating to reparation proceedings which, consistent with section 14(c) of the Commodity Exchange Act (the "Act"), 7 U.S.C. 18(c), requires nonresident reparation complainants to file a bond in double the amount of the reparation claim (or to file evidence of the complainant's entitlement to a waiver of the bond requirement) before formal action could be taken on the reparation complaint. The language of §12.13(b)(4), however, simply stated that this bond had to be filed before a formal reparation proceeding was commenced pursuant to §12.26(a), (b), or (c), and did not explicitly require that the bond (or documented request for waiver of the bond) be filed within the limitations period established by section 14(a) of the Act.

In the **Federal Register** preamble (49 FR 6602, 6607-09 and n. 14) accompanying final adoption of reparation rule 12.13(b)(4), however, the Commission stated that it considered the bond requirement of section 14(c) of the Act to be "jurisdictional," *e.g.,* for statute of limitations purposes. Consistent with this prior announcement, the Commission stated in *Adham v. Drexel Burnham Lambert,* [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶23,156, that:

> A reparation complaint by a non-resident is not filed—and the statute of limitations is not tolled—until the complainant submits either evidence of the requisite double bond, or the necessary request for a waiver of the double bond requirement and appropriate documentation supporting that request. Section 14(c) of the Act contemplates that the bonding requirement must be satisfied "before any formal action is taken" by the Commission. The first "formal action" taken on any reparation complaint is assigning it a docket number; thus we hold that a non-resident's complaint may not be accepted for docketing until it is "in proper form."

Id. at 32,389.

To conform the express language of §12.13(b)(4) to the holding of *Adham,* and to the Commission's earlier pronouncement that section 14(c)'s bond requirement is considered "jurisdictional," the Commission has determined to amend §12.13(b)(4) of its reparation rules. The revised rule makes clear that, in the case of a nonresident reparation complainant, a complaint to be considered "in proper form" must be accompanied by a bond (or appropriate evidence of the complainant's entitlement to a waiver of the bond requirement) at the time it is filed, and, in any event, no later than two years after the complainant's cause of action accrued. Because certified and registered mail have meaning only within the domestic postal system, and because complaints are not served upon opposing parties (*see* 17 CFR 12.13(b)(3) (1986)), a nonresident complaint shall be deemed filed only upon receipt by the Commission's Proceedings Clerk, and not upon the date of mailing from a foreign country.

Section 4(a) of the Administrative Procedure Act ("APA"), 5 U.S.C. 553 (1982), generally provides that a notice of proposed rulemaking must be published in the **Federal Register** and that an opportunity for comment must be afforded to the public when an agency proposes new regulations. However, the notice and comment requirements do not apply "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest." [1] For the following reason, we find the notice and comment procedure contemplated by 5 U.S.C. 553 to be unnecessary.[2]

As indicated above, the Commission has already announced its interpretation of the jurisdictional nature of the bond requirement of section 14(c) of the Act in the **Federal Register** and by way of adjudication in *Adham v. Drexel Burnham Lambert, Inc., supra.* The amendment of § 12.13(b)(4) effected hereby only codifies the Commission's prior pronouncements in the **Federal Register** and the holding in *Adham,* and does not in itself impose any new or different substantive rights or liabilities upon any parties subject to the rule as amended.[3] Although the present rule

[1] 5 U.S.C. 553(b)(B) (1982). For the same reason, we have determined not to delay the effective date of this rule for the thirty day period contemplated by 5 U.S.C. 553(d). *See* 5 U.S.C. 553(d)(3).

[2] 5 U.S.C. 553(b)(A) exempts interpretive rules from the notice and comment requirements of the APA. Because the Commission's amendment to § 12.13(b)(4) of its reparation rules, requiring the filing of a double bond before a reparation complaint will be considered in "proper form," is interpretive in nature, it is likewise exempt from notice and comment under 5 U.S.C. 553(b)(A), and may become effectively immediately pursuant to 5 U.S.C. 553(d)(2).

[3] The Commission also finds that the amendment to § 12.13(b)(4) is a "rule of agency . . . procedure" within the meaning of 5 U.S.C. 553(b)(A), and therefore, not subject to the prior notice and comment requirements of the APA.

modifications will take effect immediately upon publication in the **Federal Register**, interested persons are nevertheless invited to submit written comments on or before December 5, 1986.

II. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies when promulgating rules to consider the economic impact of the rules on small business entities. Because the rule promulgated herein simply codifies an interpretation of its reparation rules previously announced in the **Federal Register** and in a Commission adjudication, the rule itself would have no economic impact on any small business entities. Accordingly, pursuant to section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman certifies that § 12.13(b)(4), as amended herein, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 12

Administrative practice and procedure, Commodity exchanges, Commodity futures, Reparations.

PART 12—[AMENDED]

For the reasons set forth in the preamble, Title 17, Part 12 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 12 continues to read as follows:

Authority: 7 U.S.C. 12a(5), 18(b) (1982).

2. Section 12.13 is amended by revising paragraph (b)(4) as follows:

§ 12.13 Complaint; election of procedure.

* * * * *

(b) * * *

(4) *Bond required if complainant is nonresident; filing date of nonresident's complaint.*

(i) If a complaint in reparations is filed by a nonresident of the United States, the complaint shall not be considered duly filed in proper form unless it is accompanied by:

(A) A bond in double the amount of the claim either with a surety company approved by the Treasury Department of the United States or two personal sureties, each of whom shall be a citizen of the United States and shall qualify as financially responsible for the entire amount of the bond, which bond shall run to the respondent and be conditioned upon the payment of costs (including reasonable attorney's fees, for the respondent if the respondent shall prevail) and any reparation award that may be issued by the Commission against the complainant on any counterclaim asserted by respondent; or

(B) A written request that the bond requirement be waived in accordance with section 14(c) of the Commodity Exchange Act, accompanied by sufficient proof that the country of which the complainant is a resident permits the filing of a complaint by a resident of the United States against a citizen of that country without the furnishing of a bond.

(ii) The provisions of paragraphs (b)(4)(i)(A) or (b)(4)(i)(B) of this section must be satisfied within two years after the complainant's cause of action accrues.

(iii) When mailed from a foreign country, a nonresident's complaint shall be deemed filed on the date that it is received in proper form by the Commission's Proceedings Clerk, not on the date of mailing from the country of origin.

Issued in Washington, DC, on September 30, 1986 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-22511 Filed 10-3-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 357

[Docket No. RM 85-11-000; Order No. 456]

Revision of FERC Form No. 73, Oil Pipeline Data for Depreciation Analysis

Issued: September 29, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending FERC Form No. 73 and the instructions applicable to the collection of service life depreciation data from oil pipeline companies. The information collected on FERC Form No. 73 supplies the data base for several computer programs known collectively as the Depreciation Life Analysis (DLAS), that assists the Commission in the selection of appropriate oil pipeline service lives and book depreciation rates. Oil pipeline companies use the book depreciation rates to compute their operating expenses for accounting and cost of service purposes.

The final rule eliminates certain data currently collected from oil pipeline companies and modifies the instructions to encourage submission of data in a form useable in the Commission's DLAS computer programs. The rule modifies the format and filing instructions of FERC Form No. 73 to prescribe a standard filing format.

EFFECTIVE DATE: This final rule is effective December 22, 1986.

FOR FURTHER INFORMATION CONTACT: Gwendolyn D. Prioleau, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8486.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is modifying the format and filing instructions of FERC Form No. 73 to prescribe a standard filing format, and adding a new § 357.3 to its regulations to set forth the filing requirements and the format for FERC Form No. 73.[1] In addition, the Commission eliminates from the form certain data currently collected from oil pipeline companies and modifies the instructions to the form to encourage submission of data in a form useable in the Commission's Depreciation Life Analysis System (DLAS) computer programs. This rule will reduce the reporting burden of oil pipeline companies and will make the data used in the analysis of oil pipeline depreciation rates and service lives easier to process at the Commission.

II. Background

On September 4, 1985, the Commission issued a Notice of Proposed Rulemaking (NOPR) proposing to revise FERC Form No. 73, 50 FR 36601 (Sep. 9, 1985). The Commission uses the information reported in the FERC Form No. 73 to conduct a depreciation rate investigation for oil pipelines on an average of once every five years. The information is also used as data for use in several computer programs know collectively as the DLAS. This program assists the Commission in the selection of appropriate oil pipeline service lives and book depreciation rates.[2] The book

[1] The format for FERC Form No. 73 will not be printed in the **Federal Register** or the Code of Federal Regulations. A copy of the form, including all instructions to the form, is available at the Federal Energy Regulatory Commission, Public Reference Section, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8118.

[2] The definitions for "depreciation" and "service life" are set forth in 18 CFR Part 352.

depreciation rates which are computed using the FERC Form No. 73 data are set forth in orders periodically issued by the Commission and are used by oil pipeline companies to compute their operating expenses.

III. The Final Rule

A. Filing Requirements for Actuarial and Simulation Data

The final rule requests that oil pipelines submit actuarial and simulation data identified in FERC Form No. 73 on magnetic computer tape. Information would be submitted on FERC Form No. 73 only as an alternative to magnetic computer tape. The current preference for reporting data on FERC Form No. 73 is reversed by the final rule.

In the NOPR the Commission Proposed that actuarial and simulation data should be reported by vintage year from the year 1900, or the date of initial operations if later than 1900. The proposed format for FERC Form No. 73 specified that the year 1900 would be the earliest date for which respondents would be required to submit actuarial or simulation data, since the Commission no longer used data prior to 1900.

The Commission sought comments on: (1) The average amount of time currently required by respondent oil pipeline carriers to complete the filing requirements of FERC Form No. 73 for actuarial and simulation data, for both initial and updated information and specifying whether respondent currently reports on FERC Form No. 73, computer cards, magnetic tape or some other format; and (2) whether respondent anticipates an increase in the amount of time required to prepare initial or updated information for either actuarial or simulation data if it reports by magnetic tape, as opposed to FERC Form No. 73.

Williams Pipe Line Company (Williams) states that the date of its initial operations is 1966 and that it would require 6 to 12 months to develop actuarial data, and 4 to 8 months to develop simulation data, depending on when the last report was filed. Williams indicates that it currently reports data on FERC Form No. 73, but that it would prefer to report on magnetic tape. Amoco Pipeline Company (Amoco) questions the usefulness of data prior to 1973, stating that the current econoimic environment of oil pipelines would not be reflected in data prior to 1973. Amoco estimates that it would require 2 to 3 years to develop actuarial data for its system, and an additional 1 to 2 years to develop simulation data because its pipeline operations started in 1917. Amoco currently reported on FERC Form 73, but indicated that magnetic tape is preferable. It also estimates that the cost of converting data to a magnetic tape could be significant because of the manual labor involved in converting data from the last report to a current status and retrieving historical or missing data from the company's archives. Amoco states that updated information would require approximately the same amount of time to prepare as initial data, and that the amount of time required to prepare updates depends upon the amount of time that had lapsed since preparation of the last report. G&T Pipeline Company (G&T) filed comments, but did not specifically respond to either question, stating that it had no experience in compiling the data required by FERC Form No. 73. G&T supports the use of magnetic tape only as an alternative to use of FERC Form No. 73 because converting to magnetic tape would create a financial burden for G&T.

In consideration of the comments which indicate that retrieval of data dating back to 1900 would create a burden for respondents, the final rule modifies the NOPR by changing the reporting date from 1900 to 1940. The year 1940 is appropriate since the Commission's records also indicate that most oil pipelines have previously reported data from 1940 or the date of their initial operations. In addition, the Commission notes that its records indicate that Amoco has reported simulation data dating as early as 1939, and Williams has reported simulation data from 1966, the date of its initial operations. For these reasons, the instructions for FERC Form No. 73 have been revised to reflect that the initial filing of actuarial or simulation service life data should be reported by vintage or transaction year, respectively, from the year 1940, or the date of initial operations if later than 1940.

B. Effects of Opinion No. 154–B

In the NOPR the Commission also sought comments on whether and how the Commission's decision in Opinion No. 154–B [3] affects the Commission's need for the data collected in FERC Form No. 73. Williams states that although it was uncertain of the full effect of Opinion No. 154–B, it did not appear that the data to be collected in Form No. 73 was not necessary to implement Opinion No. 154–B.

The other comments regarding the effect of Opinion No. 154–B on the Commission's collection of data on FERC Form No. 73 indicate uncertainty about the use of the service life data collected by FERC Form No. 73. G&T states that the data required by FERC Form No. 73 is duplicative of the data required on valuation reports filed pursuant to 18 CFR Part 361, and that the necessity of filing valuation reports has been eliminated because Opinion No. 154–B rejected the valuation rate base methodology and adopted a trended original cost methodology.

It appears that G&T has not distinguished between the valuation regulations in 18 CFR Part 361 with the accounting regulations in 18 CFR Part 352. The Commission recognizes that there is a similarity between the valuation data collected on the ACV forms described in 18 CFR Part 361 and the accounting data collected in FERC Form No. 73 pursuant to 18 CFR Part 352. This fact alone does not obviate the need for the accounting data requested by FERC Form No. 73. Oil pipeline companies are required to submit depreciation information to the Commission pursuant to 1–8(b)(2) and 1–8(b)(3) of the General Instructions found at 18 CFR Part 352. These instructions require oil pipeline carriers to compute percentage rate studies for their depreciable property accounts, and to maintain records as to the service life and net salvage value of their property and property retirements. The information reported in the FERC Form No. 73 assists the Commission in the selection of appropriate oil pipeline service lives and book depreciation rates. The book depreciation rates are computed in part by using the FERC Form No. 73 data, and are set forth in orders periodically issued by the Commission. Oil pipeline companies use the book depreciation rates to compute their operating expenses for accounting and cost of service purposes. Depreciation is an element of the cost of service and rate base in the trended original cost methodology set forth in Opinion No. 154–B.[4]

Amoco acknowledges that depreciation rates and the addition and retirement of assets are essential to the trended original cost methodology, but asserts that the data collected by FERC Form No. 73 is not essential to the development of data for trended original cost. Amoco's comments do not reflect the way the Commission uses the Form No. 73 service life data. FERC Form No. 73 is a summary of plant additions and retirements. The data is compiled by the Commission and is used in the

[3] Williams Pipe Line Co., Op. No. 154–B, 31 FERC ¶ 61,377 (1985).

[4] 31 FERC ¶ 61,377 at 61,834, 61,836.

determination of service lives and book depreciation rates.

The Commission finds that the collection of data regarding a pipeline's physical assets is essential to establishing book depreciation rates under a trended original cost methodology. FERC Form No. 73 provides that data as a summary of plant additions and retirements. Accordingly, the final rule adds a new § 357.3 to the Commission's regulations, which states that any oil pipeline company directed by the Commission tc file service life data during an investigation of its book depreciation rates must submit data in the format prescribed in FERC Form No. 73.

C. Other Modifications

The final rule makes two additional changes to FERC Form No. 73 because the data is no longer needed by the Commission. The final rule eliminates from FERC Form No. 73 and the instructions the reporting of data on net salvage value, since net salvage value data is not used in the DLAS programs. In addition, the final rule eliminates certain categories of information required in the instructions that are not applicable in the DLAS simulation programs. These categories are "Installation Year," Corrected Transaction Year," "Number of Units," "Gross Salvage," and "Cost of Removal."

The final rule adopts the proposal in the NOPR to eliminate the option to sumbit simulation data on cards, indicating that data would be submitted on either FERC Form No. 73 or on magnetic computer tape.

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612 (1982), requires certain statements, descriptions, and analyses of proposed rules that will have a significant economic impact on a substantial number of small entities. In defining small entities, the RFA refers to the Small Business Act's definition of a small business concern, which is a business independently owned and operated, and which is not dominant in its field of operation.[5]

In the NOPR the Commission indicated that the data required by FERC Form No. 73 is readily available to the oil pipeline carriers and imposes the least burden possible on respondents because no new burden is created by the proposed revision of FERC Form No. 73. The final rule provides alternative methods for submitting the data collected by FERC Form No. 73. Once the data base is established during an initial depreciation rate investigation, only minor updates are required for a subsequent rate investigation. The Commission also certified in the NOPR that the rule would not have a significant economic impact on a substantial number of small entities since the majority of oil pipeline companies subject to the Commission's jurisdiction are not independently owned and operated. No comments were received addressing the RFA or the Commission's RFA analysis in the NOPR.

For the reasons stated in the NOPR and this rule, the Commission affirms its certification that the rule will not have a significant economic impact on a substantial number of small entities.

V. Paperwork Reduction Act Statement

The information collection provisions of this rule are being submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982), and OMB's regulations, 5 CFR Part 1320 (1986). The information collection requirements are in fact being reduced by this rule. Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (Attention: Gwendolyn D. Prioleau, 202/357–8486).

VI. Effective Date

This rule is effective December 22, 1986. If OMB's approval and control numbers have not been received by this effective date, the Commission will issue a notice temporarily suspending the effective date.

List of Subjects in 18 CFR Part 357

Pipelines, Reporting requirements.

In consideration of the foregoing, the Commission hereby amends FERC Form No. 73, the instructions for submitting depreciation data, and Part 357 of Chapter I, Subchapter R, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 357—[AMENDED]

1. The authority citation for Part 357 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Interstate Commerce Act, 49 U.S.C. 1–27 (1976); Executive Order No. 12,009, 3 CFR Part 142 (1978).

2. Part 357 is amended by adding a new § 357.3 to read as follows:

§ 357.3 FERC Form No. 73, Oil Pipeline Data for Depreciation Analysis.

(a) *Who must file.* Any oil pipeline company directed by the Commission to file service life data during an investigation of its book depreciation rates.

(b) *When to submit.* Service life data is reported to the Commission by an oil pipeline company ony during a depreciation rate investigation.

(c) *What to submit.* The format and data which must be submitted are prescribed in FERC Form No. 73, Oil Pipeline Data for Depreciation Analysis, available for review at the Commission's Public Reference Section, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

[FR Doc. 86–22576 Filed 10–3–86; 8:45 am]

BILLING CODE 6717-01-M

[5] 5 U.S.C. 610(3) (1982).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 83C-0102]

Listing of D&C Orange No. 17 for Use in Externally Applied Drugs and Cosmetics

Correction

In FR Doc. 86–17719, beginning on page 28331 in the issue of Thursday, August 7, 1986, make the following correction: On page 28335, in the first line of the third column, "1.0 percent" should read "10 percent".

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21 CFR Parts 74, 81, and 82

[Docket Nos. 83C-0102 and 83C-0129]

D&C Orange No. 17 and D&C Red No. 19

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it has received objections to the permanent listing of D&C Orange No. 17 and D&C Red No. 19 as color additives for use in externally applied drugs and cosmetics. The objections to these listings were filed under the formal rulemaking provisions of the Federal

Food, Drug, and Cosmetic Act. The objections contended that the Delaney Clause prohibits the agency from approving the use of D&C Orange No. 17 and D&C Red No. 19 because the color additives are animal carcinogens. Neither hearings nor stays were requested. FDA has evaluated the objections and is rejecting them. The agency is also establishing new effective dates for these color additive regulations.

EFFECTIVE DATE: New effective date established: October 6, 1986.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5676.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 7, 1986, FDA permanently listed D&C Orange No. 17 and D&C Red No. 19. Those actions responded to petitions filed by the Cosmetic, Toiletry and Fragrance Association, Inc.

A. D&C Orange No. 17

The final rule for D&C Orange No. 17 (51 FR 28331; Docket No. 83C–0102) established 21 CFR 74.1267 and 74.2267, which list D&C Orange No. 17 for use in externally applied drugs and in externally applied cosmetics, respectively. The final rule also amended 21 CFR 81.1(b) and 81.27 by removing the entries for D&C Orange No. 17 from these regulations. The final rule also revised 21 CFR 82.1267 to state that D&C Orange No. 17 shall conform in identity and specifications to the requirements of § 74.1267 (a)(1) and (b).

B. D&C Red No. 19

The final rule for D&C Red No. 19 (51 FR 28346; Docket No. 83C–0129) established 21 CFR 74.1319 and 74.2319, which list D&C Red No. 19 for use in externally applied drugs and in externally applied cosmetics, respectively. The final rule also amended §§ 81.1(b) and 81.27 by removing the entries for D&C Red No. 19 from these regulations. The final rule also revised 21 CFR 82.1319 to state that D&C Red No. 19 shall conform in identity and specifications to the requirements of § 74.1319 (a)(1) and (b) and D&C lakes shall be made only from batches of D&C Red No. 19 previously certified in accordance with the requirements of § 74.1319 (a)(1) and (b).

In the final rules, FDA gave interested persons until September 8, 1986, to file objections. Concurrently with publication of the final rule on August 7, 1986, FDA extended the closing date for the provisional listing of D&C Orange No. 17 and D&C Red No. 19 until October 6, 1986 (51 FR 28363), to provide time for the receipt and evaluation of any objections submitted in response to the final rule for these color additives.

The agency received from the Public Citizen Litigation Group objections to the permanent listing regulations for both D&C Orange No. 17 and D&C Red No. 19. The objections are on file in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, under the docket numbers found in the heading of this document. FDA also received comments in support of both regulations for the Cosmetic, Toiletry and Fragrance Association, that have also been placed on file under the same docket numbers. No requests for a hearing were received in response to the listing regulations. The objections and the agency's response to them are summarized below.

II. Objections and the Agency's Response

In two letters dated August 21, 1986, the Public Citizens Litigation Group (PCLG) filed separate objections to FDA's final rules of August 7, 1986, permanently listing D&C Orange No. 17 and D&C Red No. 19. However, PCLG also stated in each of the letters that "* * * because our objections do not raise any issue of material fact, we do not request a hearing" in regard to either of the two listings.

PCLG summarized its objections as follows:

> Since the FDA has concluded that Orange No. 17 [and Red No. 19] is an animal carcinogen, the Delaney Clause * * * absolutely and unequivocally prohibits the agency from approving the use of Orange No. 17 [and Red No. 19] as a color additive in foods, drugs or cosmetics.

PCLG concluded:

> * * * the sole basis for our objection is the contention that the Delaney Clause prohibits the approval of color additives which cause cancer in animals. * * * [B]ecause the agency has already rejected our arguments on this issue [*Public Citizen* v. *Department of Health and Human Services*, No. 86–5150, which is currently pending in the U.S. Court of Appeals for the District of Columbia Circuit], there is no purpose which can be served by delaying consideration of this objection. Therefore, we urge the agecy to rule promptly on this objection * * *, so that the objectors may seek review in the Court of Appeals of the FDA's interpretation of the Delaney Clause.

The agency rejects the narrow legal interpretation of the Color Additive Amendments of 1960 (21 U.S.C. 376) set forth in these objections. The final rules for D&C Orange No. 17 and D&C Red No. 19 discuss fully the bases for the agency's conclusion that, under any reasonable standard, D&C Orange No. 17 and D&C Red No. 19 are safe for use in externally applied drugs and cosmetics and that the Delaney Clause does not bar the permanent listings of these color additives. FDA incorporates by reference herein all scientific, legal, and policy discussions set forth in the preambles to the August 7, 1986, final rules for these two color additives. Further explanation of the agency's position would serve no useful purpose.

The filing of objections served to stay automatically the effective date of September 9, 1986, for the regulations listing D&C Orange No. 17 and D&C Red No. 19. Section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 371(e)(2)) states: "Until final action upon such objections is taken by the Secretary * * *, the filing of such objections shall operate to stay the effectiveness of those provisions of the order to which the objections are made." Section 701(e)(3) of the act further stipulates that "As soon as practicable * * *, the Secretary shall by order act upon such objections and make such order public."

The agency has completed its evaluation of the objections and concludes that a continuation of the stay of the regulations is not warranted in response to the objections. Additionally, there was no request for a hearing in conjunction with the objections that were submitted.

In the absence of any other objections and requests for a hearing, the agency, therefore, further concludes that this document constitutes final action on the objections received in response to the regulations as prescribed in section 701(e)(2) of the act. Therefore, the agency is acting to end the stay of the regulations by establishing a new effective date of October 6, 1986, for the regulations of August 7, 1986, listing D&C Orange No. 17 and D&C Red No. 19 as color additives for use in externally applied drugs and cosmetics. The regulations of August 7, 1986, listing D&C Orange No. 17 and D&C Red No. 19 also deleted the entries for the color additives under Part 81. Thus, on October 6, 1986, D&C Orange No. 17 and D&C Red No. 19 will be removed as entries in the provisional listing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376)) and under authority delegated to the

Commissioner of Food and Drugs (21 CFR 5.10), notice is given that the objections filed in response to issuance of 21 CFR 74.1267, 74.2267, 74.1319, and 74.2319 that were published on August 7, 1986 (51 FR 28331 and 28346) do not form a basis for further stay of their effectiveness or require amendment of the regulations. Accordingly, all the amendments promulgated thereby become effective October 6, 1986.

Dated: October 1, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 22663 Filed 10-2-86; 2:30 pm]

BILLING CODE 4160-01-M

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of FD&C Yellow No. 6, D&C Red No. 8, and D&C Red No. 9; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Red No. 8 and D&C Red No. 9 for use as color additives in drugs and cosmetics and for the provisional listing of FD&C Yellow No. 6 for use as a color additive in food, drugs, and cosmetics. The new closing date will be December 5, 1986. FDA has decided that this postponement is necessary to provide time for the preparation of Federal Register documents that will permanently list the general food, drug, and cosmetic uses of FD&C Yellow No. 6, and the ingested drug and cosmetic lip product uses and uses in externally applied drugs and cosmetics of D&C Red No. 8 and D&C Red No. 9.

DATES: Effective October 6, 1986, the new closing date for FD&C Yellow No. 6, D&C Red No. 8, and D&C Red No. 9 will be December 5, 1986.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of October 6, 1986, for the provisional listing of FD&C Yellow No. 6, D&C Red No. 8, and D&C Red No. 9 by regulation published in the Federal Register of August 7, 1986 (51 FR 28363). FDA extended the closing date for these color additives until October 6, 1986, to provide time for the preparation and publication of appropriate Federal Register documents. The regulation set forth below will postpone the October 6, 1986, closing date for the provisional listing of these color additives until December 5, 1986.

In the Federal Register of June 6, 1986 (51 FR 20786), FDA announced that the agency has essentially completed its review and evaluation of available information relevant to the use of these color additives in food, drugs, and cosmetics. The agency has concluded that the external drug and cosmetic uses of D&C Red No. 8, and D&C Red No. 9, and the food, drug, and cosmetic uses of FD&C Yellow No. 6 are safe. Thus, the agency has decided to permanently list the color additives for these uses. The agency has also decided, based on its evaluation of the ingested drug and cosmetic uses of D&C Red No. 8 and D&C Red No. 9 that they are safe and may be permanently listed for these uses at significantly reduced concentrations. New certification specifications are also being developed for these color additives.

FDA concludes that this extension is consistent with public health and the standards set forth for continuation of provisional listing in *McIlwain* v. *Hayes*, 690 F.2d (D.C. Cir. 1982).

Because of the shortness of time until the October 6, 1986, closing date, FDA concludes that notice and public procedure on this regulation are impracticable and that good cause exists for issuing the postponement as a final rule and for an effective date of October 6, 1986. This regulation will permit the uninterrupted use of these color additives until further action is taken. In accordance with 5 U.S.C. 553(b) and (d) (1) and (3), this postponement is issued as a final regulation, effective on October 6, 1986.

List of Subjects in 21 CFR Part 81

Color additives, Cosmetics, Drugs.

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

1. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055-1056 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

2. In § 81.1 *Provisional lists of color additives* by revising the closing dates for "FD&C Yellow No. 6" in paragraph (a) and for "D&C Red No. 8," and "D&C Red No. 9," in paragraph (b) to read "December 5, 1986."

§ 81.27 [Amended]

3. In § 81.27 *Conditions of provisional listing* by revising the closing dates for "FD&C Yellow No. 6," "D&C Red No. 8," and "D&C Red No. 9," and in paragraph (d) to read "December 5, 1986."

Dated: October 1, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86-22662 Filed 10-2-86; 1:47 pm]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 86F-0074]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to increase the maximum permitted level of use of 2,2'-ethylidenebis(4,6-di-*tert*-butylphenol) as an antioxidant and stabilizer and to delete the temperature limitation on its use in rubber modified polystyrene intended for use in contact with food. This action responds to a petition filed by Schenectady Chemicals, Inc.

DATES: Effective October 6, 1986; objections by November 5, 1986.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of March 27, 1986 (51 FR 10572), FDA announced that a petition (FAP 6B3909) had been filed on behalf of Schenectady Chemicals, Inc., c/o 1150 17th St. NW., Washington, DC 20036, proposing that § 178.2010 *Antioxidants and/or*

stabilizers for polymers (21 CFR 178.2010) of the food additive regulations to increase the maximum permitted level of use of 2,2'-ethylidenebis(4,6-di-*tert*-butylphenol) as an antioxidant and stabilizer and to delete the temperature limitation on its use in rubber-modified polystyrene intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before November 5, 1986, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.2010(b) is amended in the entry for 2,2'-ethylidenebis(4,6-di-*tert*-butylphenol) by revising item 8, redesignating item 9 as new item 10, and by adding a new item 9, to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * * * *	
2,2'-Ethylidenebis(4,6-di-*tert*-butylphenol) (CAS Reg. No. 35958-30-6).	For use only: * * * 8. At levels not to exceed 0.1 percent by weight of polystyrene complying with § 177.1640 of this chapter and under conditions of use D through G described in table 2 of § 176.170(c) of this chapter. 9. At levels not to exceed 0.2 percent by weight of rubber-modified polystyrene complying with § 177.1640 of this chapter. 10. In adhesives complying with § 175.105 of this chapter.
* * * * * * *	

Dated: September 24, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–22516 Filed 10–3–86; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 73

[DoD Directive 1430.13]

Training Simulators and Devices

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: This part establishes training simulator and device development, acquisition, and utilization policy; provides guidance for establishing Service policy for training simulators and devices; and, authorizes the Department of Defense to use training simulators and devices to make training systems more effective and to help maintain military readiness. The part emphasizes the concepts of training simulators and devices as part of a total training system and concurrency of those training simulators and devices with the system supported.

EFFECTIVE DATE: August 22, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Croach, Office of the Assistant Secretary of Defense (Force Management and Personnel), Room 3B930, the Pentagon, Washington, DC 20301–4000, telephone (202) 695–0975.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 73

Armed Forces, Education, Goverment procurement.

Accordingly, Title 32 is amended to add Part 73 to read as follows:

PART 73—TRAINING SIMULATORS AND DEVICES

Sec.

Authority: 5 U.S.C. 301 and 10 U.S.C. 133.

§ 73.1 Purpose.

This part: (a) Establishes training simulator and device development, acquisition, and utilization policy implementing Assistant Secretary of Defense memorandum dated October 5, 1984 in accordance with DoD Directive 5000.1,[1] DoD Instruction 500.2,[1] DoD Directive 5000.3,[1] DoD Directive 5000.39,[1] DoD Directive 5000.19,[1] DoD Instruction 7041.3,[1] DoD 7110.1–M, and Executive Order 12344.

(b) Provides guidance for establishing Service policy for training simulators and devices.

(c) Authorizes the Department of Defense to use training simulators and devices to make training systems more effective and to help maintain military readiness. Emphasizes the relationship between the system(s) supported and the training system and supports the requirements for coincident development and concurrency between the system(s) supported and the training system. A systematically developed training system with appropriate training simulators, devices, and embedded training capability cost-effectively provides training for any given weapon or support system. Properly used, such training simulators and devices facilitate: training that might be impractical or unsafe if done with actual systems or equipment; concentrated practice in selected normal and emergency actions; the training of operators and maintainers to diagnose and address possible equipment faults; enhanced proficiency despite shortages of equipment, space, ranges, or time; control of life-cycle training costs; and reducing systems required in maintenance training.

(d) Emphasizes that training simulators and devices are integral parts of an overall training system. Those training systems without training simulators or devices specifically are excluded from this part.

§ 73.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD) and the Military Departments, including their National Guard and Reserve components. The term "Military Services," as used herein, refers to the Army, Navy, Air Force, Marine Corps, and the National Guard and Reserve components.

(b) This part shall not be construed to usurp management prerogatives or responsibilities of the Military Departments or their Guard or Reserve Components.

(c) For reporting purposes supporting acquisition review for training simulators or devices supporting a major system or comprising nonsystem training equipment, the dollar thresholds shall be those established in DoD 7110.1–M, part II.

(d) When the Secretary of Defense designates any training simulator or device as being of significant interest based on criteria other than cost, the Military Service concerned shall provide the documentation required by this part.

(e) The policies of this part shall be followed regardless of the cost of the training simulators or devices.

(f) In accordance with the responsibilities in E.O. 12344, the Department of Energy (DoE) has cognizance over the development of training systems and devices used in the training of naval nuclear propulsion plant operators. Such systems and devices are not covered by this Directive, but are coordinated separately with DoE.

§ 73.3 Definitions.

Embedded training. Training using operational equipment that involves simulating or stimulating of equipment performance.

Non-system training device. A training simulator or device not supporting a single, specific, parent defense system.

Training simulator and/or device. Hardware and software designed or modified exclusively for training purposes involving simulation or stimulation in its construction or operation to demonstrate or illustrate a concept or simulate an operational circumstance or environment. Under this part, training simulators and devices are considered part of an overall training system that may or may not be identified as part of a parent defense system. Under this part, the term training device shall apply to training simulators and devices.

Training system. A systematically developed curriculum including, but not necessarily limited to, courseware; classroom aids; training simulators and devices; operational equipment; embedded training capability; and personnel to operate, maintain, or employ a system. The training system includes all necessary elements of logistic support.

§ 73.4 Policy

(a) *General.* (1) It is DoD policy to optimize the operational readiness of the total forces by effecting the development and acquisition of training devices, in accordance with DoD Directive 5000.1. The requirement for development and acquisition of training devices shall be based on a Military Service's training requirements analysis process. The analysis shall define the training need, determine whether existing training devices shall satisfy the training requirement, and evaluate the benefits and tradeoffs of potential alternative training solutions. This process shall consider how recommended training devices shall function in the National Guard and Reserve environment and how they shall meet any unique National Guard and Reserve training needs.

(2) All training devices supporting and unique to a major system acquisition should be documented and reviewed with the parent major system. Major system training devices shall be identified in the acquisition process in the Integrated Program Summary (IPS), in accordance with DoD Instruction 5000.2. Those training devices that are not included in a major system acquisition should be identified and justified in relation to a specific training program or course. The Military Services shall ensure that all development, procurement, operation, and support costs are programmed and funded.

(3) These policies do not imply that a training system, simulator, or device must be procured from the prime contractor for the defense system being supported.

(4) The acquisition of a training system that supports a new defense system or equipment shall be assigned the same priority as that of the parent system or equipment.

(5) Those training devices dedicated to defense systems or equipment should be available in time for the fielding of the parent system.

(6) These policies and the guidelines to implement them apply to acquisition funds from advanced development through procurement.

(7) Joint-Services acquisition of common training devices should be fully considered in *each* Military Service's training analysis and planning.

(b) *Development planning guidelines.* (1) Once a training device requirement has been established, the training device program must be described and documented in a Military Service's approved development plan (DP) or equivalent before development of the training device may proceed.

(2) The DP, which documents the Military Service's training requirement, must integrate the proposed, specific training device hardware or software system being developed and acquired

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, ATTN: Code 301, 5801 Tabor Avenue, Philadelphia, PA 19120.

with the training system for which it is intended.

(3) The DP shall address the following items as data become available:

(i) Assessment of Training need and expected benefit from the training device(s).

(ii) Description of the training device(s).

(iii) Acquisition and modification schedule.

(iv) Ability of the training devices to maintain or improve safety.

(v) Course and training estimates including projected student flows and loads, requirements for instructors and other staff, location of training facilities, and other training requirements.

(c) *Acquisition guidelines.* (1) Training device alternatives including, but not limited to, trainers, general versus specific devices, real equipment versus simulated equipment, and embedded training capability should be evaluated by the Military Service concerned. Where applicable, economic analyses of alternatives should be conducted in accordance with the methods and assumptions in DoD Instruction 7041.3. The evaluation of each alternative should consider as appropriate:

(i) Life-cycle use versus costs.

(ii) Trade-off with requirements for munitions, if applicable.

(iii) Capability of the training device(s) to accommodate changes made to the parent defense systems based on data on minimum and maximum changes made over the life cycle of similar defense systems.

(iv) Student load and curriculum changes or field application training changes anticipated during the life cycle.

(2) When military specification equipment is not required to meet performance needs, commercial practices and equipment should be used to contain initial procurement and follow-on support costs. Commercially available training programs also deserve serious consideration.

(3) Specifications should cover training functions, performance levels, and required proficiency.

(d) *Training effectiveness evaluation guidelines.* Analysis of training capability and potential should focus on data based on actual experience.

§ 73.5 Responsibilities.

(a) The *Assistant Secretary of Defense for Force Management and Personnel* (ASD(FM&P)) shall:

(1) Monitor the Military Services' compliance with this part.

(2) Designate action officers for training devices associated with major system acquisitions' constituting major systems in themselves, and non-system training devices meeting the documentation threshold. These action officers shall:

(i) Monitor the status of training devices, as assigned.

(ii) Review Military Service-provided DPs.

(iii) Obtain such reports and information as may be necessary in performing assigned functions, in accordance with DoD Directive 5000.19.

(3) Review the Military Service's Regulations, Manuals, or Instructions implementing this part.

(4) Review the Military Service's acquisition documentation to identify areas of potential joint applicability.

(5) Respond to Congressional inquiries on implementation of this part and results achieved.

(6) Administer a continuing review of policy on training devices, updating this part as necessary.

(b) The *head of each DoD component* shall:

(1) Ensure development of the Military Service's documents implementing this part.

(2) Ensure that the Military Service's charters for program managers of all major defense system acquisitions adequately address their training device responsibilities, and that program managers are supported by training system managers.

§ 73.6 Procedures.

(a) OSD oversight for training devices that support a major system or constitute major systems in themselves, shall be accomplished during the system acquisition review process. Military Service-approved DPs, which will evolve as data from detailed training analyses become available, shall be forwarded to OSD not later than the Program Objectives Memorandum (POM) submission in which budget year funds are requested for manufacture of the initial or prototype device(s), but in no case before the milestone listed in paragraph (1) or (2) of this section. Service charges to the DP shall be submitted to OSD as changes occur.

(1) DPs for training devices integral to a major system acquisition shall be submitted to support the Decision Coordinating Paper/Integrated Program summary of the parent defense system by Milestone II.

(2) For training devices designated major systems acquisitions, DPs shall be submitted with, or incorporated into, the System Concept Paper prepared for Milestone I.

(3) For non-system training devices, DPs, shall be submitted not later than the POM submission in which budget year funds are requested for manufacture of the prototype or the first device.

(b) *Training Effectiveness Evaluation Plan (TEEP).* (1) The Training Effectiveness Evaluation Plan shall be developed as applicable with regard to DoD Directive 5000.3 to ensure that acquired training devices meet the Military Service's training requirements and effectiveness levels. The TEEP shall describe the Service's plan to accomplish training effectiveness evaluations, to the extent the Services deem appropriate, for training devices associated with each major defense system acquisition, training devices constituting major systems in themselves or non-system training devices that meet the threshold described in § 73.2 of this section.

(2) The TEEP should document the planned evaluation of the training functions, performance levels, and proficiency requirements incorporated in the specifications. The TEEP should be approved by the sponsoring Service at least 6 months before the planned commencement of training effectiveness evaluation.

(3) For training devices not meeting thresholds described in § 73.2 of this part, the Military Servcies are encouraged to prepare, approve, and support a TEEP at least 6 months before the planned commencement of training effectiveness evaluation.

§ 73.7 Effective date and implementation.

This part is effective August 22, 1986. Forward one copy of each implementing document to the Assistant Secretary of Defense (Force Management and Personnel). Management reports and information specified herein shall be submitted for training devices reaching the stated milestones beginning with FY 87 as required by the ASD memorandum. Requirements shall be waived on a case-by-case basis for training devices for which this implementation date shall cause inordinate cost of manpower expenditures.

Linda M. Lawson,

Alternative OSD, Federal Register Liasion Officer, Department of Defense.

October 1, 1986.

[FR Doc. 86-22609 Filed 10-03-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 97, 170 and 172

[CGD 80-159]

Damage Stability and Flooding Protection for Great Lakes Vessels; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects several errors in the final rule regarding damage stability and flooding protection for Great Lakes vessels which appeared in 51 FR 33056, published on September 18, 1986.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Robert M. Letourneau (202) 267-2988.

SUPPLEMENTARY INFORMATION:

a. On page 33056, second column, last paragraph, last line—replace "bad" with "boarding".

b. On page 33057, third column, second paragraph, line 13—replace "last" with "lack".

c. On page 33058, first column, replace first paragraph of "Regulatory Evaluation" with the following:

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 and non-significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). Due to the lack of demand for new construction, the small percentage increase in construction cost, and the potential that future construction may be through the MARAD loan guarantee program, the potential for economic impact has been found to not require further evaluation. There is currently no demand for new Great Lakes bulk dry cargo ships, nor is there expected to be any in the near future. Even if there were new construction, the increased cost to construct a new Great Lakes bulk dry cargo ship to conform to these standards is very small in relation to the total cost of the vessel. The estimated cost of constructing a new Great Lakes bulk carrier is 100 million dollars. Based on the study, "Economic Benefits of Improved Watertight Subdivision for Great Lakes Bulk Carriers", conducted for the Maritime Administration in 1978, the cost for one ship to comply with these regulations would be approximately one million dollars, adding only one percent to the cost of building the ship. In exchange for this small cost, the risk of catastrophic loss of life from a sudden sinking is substantially reduced.

d. On page 33059, first column, Part 170—[Amended], replace change 6 with the following:

"6. Section 170.055 is amended by redesignating existing paragraphs (k) through (t) as paragraphs (l) through (u) respectively and by adding a new paragraph (k) to read as follows:"

e. On page 33059, third column, § 172.220(b)(2);

1. Remove "(the effective date of these regulations)" and insert "November 17, 1986" in its place.

2. Remove "(one year of the effective date of these regulations)" and insert "November 17, 1987" in its place.

M.J. Schiro,

(Acting), Chief Office of Marine Safety, Security and Environmental Protection.

September 29, 1986.

[FR Doc. 86-22607 Filed 10-3-86; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-15; RM-5067]

Television Broadcasting Services; Ozark, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document assigns UHF Channel 34 to Ozark, AL, as that community's first local television service, in response to a petition filed by Johnny La Carter. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 3, 1986.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-15, adopted September 18, 1986, and released September 25, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washinton, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. In § 73.606(b), the table of assignments is amended by adding Ozark, Channel 34, under Alabama.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-22562 Filed 10-3-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-372; RM-5172]

Radio Broadcasting Services; Rock Harbor, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 271C2 for Channel 272A at Rock Harbor, Florida, and modifies the Class A license for Station WKLG(FM) to specify Channel 271C2 at the request of the licensees, David W. Freeman, Sr., David W. Freeman, Jr., Elizabeth M. Freeman, and Elizabeth C. Freeman. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 3, 1986.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-372, adopted September 19, 1986, and released September 25, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202 (b), the table of FM allotments is amended, under Florida, by amending the entry for Rock Harbor to add Channel 271C2 and delete Channel 272A.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-22560 Filed 10-3-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-58; RM-5033, 5093]

Radio Broadcasting Services; Tomah, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channels 233A and 241A to Tomah, Wisconsin, as that community's second and third FM services, at the request of Tony J. Trunkel and Phyllis Rice, respectively. Channel 233A requires a site restriction of 0.8 kilometers (0.5 miles) east of Tomah and Channel 241A requires a site restriction 1.1 kilometers (0.7 miles) northeast of the community. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 3, 1986; the window period for filing applications will open on November 4, 1986, and close on December 3, 1986.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-58, adopted September 18, 1986, and released September 25, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 37 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the table of FM allotments is amended by adding Channels 233A and 241A under the entry for Tomah, Wisconsin.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-22566 Filed 10-3-86; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 51, No. 193
Monday, October 6, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

Navel Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Marketing Policy and request for comments.

SUMMARY: This notice sets forth a summary of the 1986–87 marketing policy for navel oranges grown in Arizona and designated part of California. The marketing policy was submitted by the Navel Orange Administrative Committee, which functions under the marketing order covering California-Arizona Navel oranges. The marketing policy contains information on crop and market prospects for the 1986–87 season.

DATE: Written suggestions, views, or pertinent information relating to the marketing of the 1986–87 California-Arizona navel orange crop will be considered if received by October 16, 1986.

ADDRESS: Interested persons are invited to submit written comments concerning this notice. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2085, South Building, Washington, DC 20250. Comments should reference the date and page number of this issue of the **Federal register** and will be available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250; telephone: (202) 447–5697. Growers and handlers of navel oranges may obtain a copy of the marketing policy directly form the Navel Orange Administrative Committee. Copies of the marketing policy are also available from Mr. Cioffi.

SUPPLEMENTARY INFORMATION: Pursuant to § 907.50. of the marketing order covering navel oranges grown in Arizona and designated part of California, the Navel Orange Administrative Committee, hereinafter referred to as the "committee," is required to submit a marketing policy to the Secretary prior to recommending regulations for the ensuing season. The order authorizes volume and size regulations applicable to fresh shipments of navel oranges to domestic markets, including Canada. Export shipments of oranges and oranges utilized in the production of processed orange products are not regulated under the order.

The committee has adopted its marketing policy for the 1986–87 marketing season. The marketing policy is intended to inform the Secretary and persons in the industry of the committee's plans for recommending regulation of shipments during the marketing season and the basis therefor. The committee evaluates market conditions and makes recommendations to the Secretary as to the quantity of navel oranges that can be shipped each week to domestic outlets without disrupting markets. Under certain conditions, the committee may recommend size regulations applicable to fresh domestic shipments.

In its 1986–87 marketing policy, the committee projects the 1986–87 California-Arizona navel orange crop at 80,500 cars (1 car=1,000 cartons of 37½ pounds net weight each). This compares with last year's production of 67,867 cars. In Distict 1, Central California, 1986–87 production is estimated at 70,000 cars compared to 58,943 cars produced in 1985–86. In District 2, Southern California, the crop is expected to be 9,000 cars compared to 7,851 cars produced last year. In District 3, the Arizona-California desert valley, the committee estimates a production of 1,000 cars compared to 885 cars in 1985–86. In District 4, Northern California, a 400 car crop is projected compared to 188 cars last year.

It is expected that orange sizes will be almost identical to last year. Fruit quality shipped to domestic markets is expected to be outstanding.

The committee estimates that shipments to domestic fresh market outlets, including Canada, will account for 52,500 cars. Last year a total of 47,985 cars were shipped to domestic markets. Fresh export shipments are expected to total 6,500 cars compared to 5,360 cars last year. Processing and other disposition is forecast at 21,500 cars compared to 14,522 cars last year.

Based on current projections, shipments are expected to begin in mid-October and finish in late May. The committee has developed a schedule of estimated weekly shipments during the 1986–87 season.

The committee reports that the Florida round orange production is expected to be 260,000 cars, about nine percent greater than last year. In Texas, following severe freeze damage in 1983, orange production for the 1986–87 season is expected to be 1,400 cars. Production of apples is estimated at 186.8 million bushels in 1986–87 compared to 189.3 million bushels in 1985–86. Winter pear production is estimated at 7.4 million bushels in 1986–87 compared to 8.4 million bushels last year. General economic conditions are expected to be favorable.

The 1985–86 season average fresh equivalent on-tree grower returns for California-Arizona navel oranges as reported by the National Agricultural Statistics Service were $3.64 per carton. This was about 74 percent of the equivalent season average parity of $4.91 per carton. The 1986–87 parity is projected to be $5.20 per carton. The Agricultural Marketing Service is currently evaluating the 1986–87 price outlook and will use the results of this evaluation in reviewing the committee's marketing policy.

In order to provide for public input, the Department will accept written views and information pertinent to the proposed marketing policy and the need for, or level of, regulation for the 1986–87 season. The Department is also concerned with developing criteria for determining when volume regulations, if implemented, should be terminated for the season. Interested persons are also invited to submit their views and comments on this issue.

Publication of this summary of the marketing policy does not create any legal obligations or rights, either substantive or procedural.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. The Authority citation for 7 CFR Part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Dated: October 1, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 85–22626 Filed 10–2–86; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM–50–45]

Kenneth G. Sexton; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemakeing.

SUMMARY: The Commission is publishing for public comment this notice of receipt of a petition for rulemaking dated August 4, 1986, which was filed with the Commission by Kenneth G. Sexton. The petition was docketed by the Commisson on August 7, 1986, and has been assigned Docket No. PRM–50–45. The petitioner requests that the Commission amend its regulations in 10 CFR Part 50 to require that current methodologies and analytical techniques be used to reevaluate the establishing Emergency Planning Zone (EPZ) for nuclear power plants.

DATE: Submit comments by December 5, 1986. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESS: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

For a copy of the petition write: Division of Rules and Records, Office of Administration, 4000 MNBB, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–7086 or Toll Free (800) 368–5642.

SUPPLEMENTARY INFORMATION:

Background

I. Petitioner's Interest

The petitioner, an atmospheric chemist and computer modeler, owns property within the 10-mile EPZ of the Shearon Harris Nuclear Power Plant, which is located 15 miles southwest of Raleigh, North Carolina. The petitioner is concerned that emergency planning for areas within and beyond the 10-mile distance provided in the Commisson's regulations is inadequate because the current 10-mile EPZ was determined with what the petitioner assets is now considered outdated methodologies and data. The petitioner states that advanced techniques and new information obtained through research in the last 10 years have produced improved calclations and estimates for determining the reasonable size of an EPZ. Consequently, petitioner believes that there is overwhelming justification to request that the size of the EPZ be reevaluated on a site-specific based using more current risk-analysis methodologies and meterological data.

II. Proposed Amendment to 10 CFR Part 50

The petitioner proposes that § 50.47(c)(2) be amended to read as follows: "The plume exposure pathway EPZ for all nuclear power plants consists of an area to be determined by the NRC on a site-specific basis, after allowing for review of the determination report by any interested parties. The report shall list, describe, and reference all input data and methodologies used and all other factors considered. The NRC shall use methodologies and procedures which are generally accepted as reasonably current and appropriate by recognized professional grouips in each supporting field (including the American Meteorology Society (AMS) and Environmental Protection Agency (EPA)). Likewise, best available estimates for model input (such as source terms) shall be used. This distance shall be reevaluated at least every five years, using latest techniques and information, unless petitioned earlier by the NRC, another professional group (such as the EPA or AMS), or the general public. Generally, the models shall be at least as complex and realistic as described in NUREG–0654 for Class B models. Meteorological submodels shall consider all factors which can have an effect on the impact of the release of radioactive materials to the environmental. The exact size and configuration of the EPZ surrounding a particular nuclear power reactor shall be determined in relation to local emergency response needs and capabilities as they are affected by such conditions as power plant specifics (type, power output, age, etc.), local meteorology (including data from both the power plant site and local national weather service), demography, topograpy, land characteristics, access routes, jurisdictional boundaries, and proximity of seats of local government."

III. Conclusion

The petitioner concludes that the officials responsible for assuring the health and safety of the public should be aware that current techniques have not been used in establishing the EPZ and that serious questions exist regarding some of the assumptions under which it was established. The obvious implication, the petitioner further concludes, is that the calculations and the resulting 10-mile EPZ are therefore suspect and uncertain for purposes of protecting the health and safety of the public.

The petition includes additional justification and support for the requested amendment not included in this Federal Register notice. Members of the public interested in filing comments on PRM–50–45 can obtain a copy of the petition and supporting docmentation by writing to the address noted above.

This petition is similar in the issues it raises to petition for rulemaking PRM–50–31 submitted to NRC on December 21, 1981, by the Citizens' Task Force of Chapel Hill, North Carolina. That petition requested that the 10-mile emergency planning zone be expended into a 20-mile planning zone. It was published for public comment in the Federal Register on March 24, 1982 (47 FR 12639), and 74 comments were received. That petition and comments are available at the NRC Public Document Room at 1717 H Street, NW, Washington, DC.

Dated at Washington, DC, this 30 day of September 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission

[FR Doc. 86–22597 Filed 10–3–86; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF ENERGY

10 CFR Part 862

[Docket No. DP–RM–86–101]

Proposed Restrictions on Aircraft Landing and Air Delivery at Department of Energy Nuclear Sites

AGENCY: Defense Programs, DOE.

ACTION: Notice of proposed rulemaking and hearings.

SUMMARY: The Department of Energy (DOE) proposes to issue regulations prohibiting the landing of aircraft on lands or waters of nuclear sites subject to the jurisdiction, administration or in the custody of the DOE. Exceptions include aircraft (1) on official business of the Federal Government, (2) on official business of a state or local law enforcement agency, with prior notification to DOE if possible or, (3) forced to land due to an emergency beyond the control of the operator, with prior notification to DOE if possible.

The proposed regulations would also prohibit airdrops by parachute or other means of persons, cargo, or objects from aircraft on DOE nuclear sites. Exceptions, with prior notification to DOE if possible, include (1) emergencies involving the safety of human life or (2) threat of serious property loss. Retrieving persons or objects from DOE nuclear sites would be prohibited by the proposed regulations.

The proposed regulations would establish a voluntary minimum altitude of 2,000 feet above the terrain subject to the regulations for all aircraft. This would complement more stringent FAA restrictions or prohibitions regarding airspace over certain DOE property. In all cases, the more stringent FAA restriction or prohibit would take precedence over this voluntary minimum attitude. A radio frequency for emergency and non-emergency communication between aircraft and DOE nuclear sites would be designated. the UNICOM frequency would be that radio frequency pending FAA designation of a dedicated frequency.

DATES: Written comments must be received no later than 4:00 p.m. November 20, 1986, to ensure their consideration.

Public hearings will be held as follows:

Las Vegas, Nevada: Beginning at 9:30 a.m. on October 28, 1986

Washington, DC: Beginning at 9:30 a.m. on October 30, 1986

Requests to speak at either hearing must be received no later than 4:00 p.m. on October 22, 1986.

Eight copies of speakers statements are requested to be submitted at the appropriate DOE hearing location.

ADDRESSES: Written comments should be submitted to Eric A. Rojo, Department of Energy, Defense Programs, DP–30, Germantown, Washington, DC 20545, (301) 353–5133.

Requests to speak at either of the two hearings and requests for a list of speakers should be submitted to: Eric A. Rojo, Department of Energy, Defense Programs, DP–30, Germantown, Washington, DC 20545, (301) 353–5133.

The hearing locations are:

Las Vegas, Nevada: The Foley Federal Building, 300 Las Vegas Blvd., South Second Floor Conference Room, Las Vegas, Nevada 89101

Washington, DC: U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Room 1E–245 (1st Floor, E Corridor), Washington, DC 20585

Copies of the transcripts of the public hearings and the written public comments received may ve viewed and/or obtained from the DOE Freedom of Information Reading Room, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6020, 9:00 a.m.—4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Eric A. Rojo, Department of Energy, Defense Programs, DP–30, Germantown, Washington, DC 20545, (301) 353–5133

Jo Ann Williams, Department of Energy GC–31, Room 6B–256, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6975

SUPPLEMENTARY INFORMATION:

I. Background

The DOE has the responsibility for the design, development, and production of the Nation's nuclear weapons. DOE also has the responsibility for protecting and defending the highly valuable and hazardous resources housed at these facilities. The proposed establishment of a security policy regarding aircraft landing and air delivery is one segment of a DOE comprehensive effort to enhance the protection of these vital nuclear weapons research, development, and production facilities. This notice is also in response to the concerns for greater airspace security at these facilities expressed by the National Security Council, the Congress, and the General Accounting Office.

These proposed regulations are modeled after regulations of the National Park Service regarding aircraft and air delivery at 36 CFR 2.17.

II. List of Major DOE Nuclear Sites

These proposed regulations would apply to DOE nuclear sites including, but not limited to, those set forth in the chart below.

DOE SITE AND LOCATION

Site	Location
DOE Headquarters, Forrestal Building.	Washington, D.C
DOE Headquarters, Germantown Facility.	Germantown, MD.
Idaho National Engineering Lab and Associated Facilities.	Idaho Falls, ID.
West Valley Demonstration Project.	West Valley, NY.
Nevada Test Site	Mercury, NV.
Portsmouth Gaseous Diffusion Plant.	Piketon, OH.
Goodyear Aerospace	Akron, OH.
National Lead	Fernald, OH.
Oak Ridge National Laboratory and Associated Facilities.	Oak Ridge, TN.
Pantex	Amarillo, TX.
Los Alamos National Laboratory.	Los Alamos, NM.
Rocky Flats Plant	Golden, CO.
Kansas City Plant	Kansas City, MO.
Mound Laboratory	Miamisburg, OH.
Sandia National Laboratory	Tonopah, NV.
Sandia National Laboratory	Albuquerque, NM.
Pinellas Plant	St. Petersburg, FL.
Ames Laboratory	Ames, IA.
Battelle Project Management Division.	Columbus, OH.
Brookhaven National Laboratory.	Upton, NY.
Argonne National Laboratory	Lemont, IL.
New Brunswick Laboratory	Chicago, IL.
Bettis Atomic Power Laboratory.	West Mifflin, PA.
Bettis Atomic Power Laboratory.	Schenectady, NY.
Knolls Atomic Power Laboratory.	Windsor, CT.
Kesselring Site	West Milton, NY.
Hanford Site	Richland, WA.
Energy Technology Engineering Center.	Canoga Park, CA.
Lawrence Berkeley Laboratory.	Berkeley, CA.
Lawrence Livermore National Lab.	Livermore, CA.
Lawrence Livermore National Lab.	Tracy, CA.
Savannah River Plant	Aiken, SC.

III. Procedural Requirements

A. Executive Order 12291

The Proposed Rule was reviewed under Executive Order 12291 (46 FR 13193, February 19, 1981). DOE has concluded that the rule is not a "major rule" under the Executive Order. It will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, State, Federal, or local Government agencies, or geographic regions; or (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Pursuant to section 3(c)(3) of Executive Order 12291, this Proposed Rule was submitted to the Director of OMB for a 10-day review. The Director has concluded his review under that Executive Order.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (5 U.S.C. 601 et seq.) requires, in part, that an agency prepare a regulatory flexibility analysis for any proposed rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and an explanation of that determination in the **Federal Register.** The Proposed Rule deals with a security policy regarding aircraft landing and air delivery. The economic impact on small business is negligible. Accordingly, pursuant to section 606(b) of the Regulatory Flexibility Act, DOE certifies that the Proposed Rule will not have a significant economic impact on a substantial number of small entities.

C. Environmental Review

DOE has determined that the Proposed Rule is not a major Federal action with significant environmental impact, and therefore does not require preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.)

D. Paperwork Reduction Act

The Proposed Rule does not impose a collection of information requirement; therefore, it is not necessary to submit it to the Office of Management and Budget for review under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

IV. Opportunity for Public Comment

A. Written comments—Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposal set forth in this notice. Comments should be submitted to the address given in the beginning of this notice. The envelope and documents submitted should be identified with the designation "Proposed Restrictions on Aircraft Landing and Air Delivery. Docket Number DP-RM-86-101.

All comments received on or before the date specified in the beginning of this notice and all other relevant information will be considered by DOE before taking final action on this rule.

Any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy, as well as one copy from which the information claimed to be confidential has been deleted. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination. This procedure is set forth in 10 CFR 1004.11 (44 FR 1908, January 8, 1979).

B. Public hearings—DOE will hold two public hearings on the proposed rule in the cities and on the dates specified at the beginning on this notice.

Any person who has an interest in the proposed regulation or who is a representative of a group or class or persons which has an interest in it may make a request for an opportunity to make an oral presentation. Such a request to speak at the hearings should be directed to the address given in the addresses section of this notice and must be received by 4:00 p.m. local time, on the date specified in the dates section.

The person making the request should indicate which hearing they wish to attend and should describe briefly his or her interest in the proceeding. The person should also provide a phone number where the person may be reached. Those persons requesting an opportunity to provide testimony should bring eight copies of their statement to the hearing. If a person cannot provide eight copies, he or she should mention this in the letter requesting an opportunity to speak so that alternate arrangements can be made in advance of the hearing.

C. Conduct of Hearing—DOE reserves the right to schedule oral presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation will be limited to 20 minutes.

A DOE official will preside at each hearing. This will not be a judicial or evidentiary type hearing. Questions may be asked of speakers only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearings will be based on all the information available to DOE.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

D. Transcript of Hearing—A transcript of each hearing will be made and the entire record of the hearings, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office at the address given in the beginning of this notice, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday except Federal Holidays. Any person may purchase a copy of the transcript from the reporter.

E. Cancellation of Hearing—If DOE must cancel a hearing, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register.** Notice of cancellation will also be given to all persons scheduled to speak at the hearing.

List of Subjects in 10 CFR Part 862

Security measures, Penalties, Nuclear energy, Aircraft.

For reasons set out in the preamble, a new 10 CFR Part 862 of the Code of Federal Regulations is proposed to be issued as set forth below.

Issued in Washington, DC, this 30th day of September, 1986

Donald Ofte,

Principal Deputy Assistant Secretary for Defense Programs

Part 862 would be added to 10 CFR Chapter III to read as follows:

PART 862—RESTRICTIONS ON AIRCRAFT LANDING AND AIR DELIVERY AT DEPARTMENT OF ENERGY NUCLEAR SITES

Sec.

Authority: 42 U.S.C. 2201.b.,i.; 2278.a.

§ 862.1 Purpose.

The purpose of this part is to set forth Department of Energy, hereinafter "DOE", security policy regarding aircraft and air delivery on nuclear sites under the jurisdiction of DOE.

§ 862.2 Scope.

This part applies to all persons entering or otherwise within the boundaries of lands or waters subject to the jurisdiction, administration, or in the custody of the DOE.

§ 862.3 Definitions.

Aircraft. A device that is used or intended to be used for flight in the air, including powerless flight.

Boundary. A delineation of Federal interest on a map:

(1) Authorized by Congress, or

(2) Published pursuant to law in the **Federal Register,** or

(3) Filed or recorded by a State or political subdivision in accordance with applicable law.

Downed aircraft. An aircraft that cannot become airborne as a result of mechanical failure, fire, or accident.

§ 862.4 Prohibitions and penalties.

(a) The following are prohibited:

(1) Operating or using aircraft on lands or waters.

(2) Delivering a person or object by parachute, helicopter, or other airborne means, except in emergencies involving public safety or serious property loss. If possible, notification shall be given to DOE prior to any emergency delivery.

(3) Retrieving a person or object by helicopter or other airborne means.

(b) The provisions of this section, other than paragraph (c) of this section, shall not be applicable to official business of the Federal government; landing due to circumstances beyond the cotrol of the operator with prior notification to DOE, if possible; or official business of a state or local law enforcement agency with prior notification to DOE, if possible.

(c)(1) Except as provided in paragraph (c)(3) of this section, the owners of a downed aircraft shall remove the aircraft and all component parts thereof in accordance with procedures established by the cognizant DOE Manager of Operations. In establishing removal procedures, the Manager of Operations is authorized to:

(i) Establish a reasonable date by which aircraft removal operations must be completed;

(ii) Determine times and means of access to and from the downed aircraft; and

(iii) Specify the manner or method of removal.

(2) Failure to comply with procedures and conditions established under paragraph (c)(1) of this section is prohibited.

(3) The Manager of Operations may waive the requirements of paragraph (c)(1) of this section or prohibit the removal of downed aircraft, upon a determination that:

(i) The removal of a downed aircraft would pose an unacceptable safety or security risk;

(ii) The removal of a downed aircraft would result in extensive resource damage or an unacceptable disruption of DOE activities; or

(iii) The removal of a downed aircraft is impracticable or impossible.

(d) The use of aircraft shall be in accordance with regulations of the Federal Aviation Administration. Such regulations are adopted as a part of these regulations.

(e) The operation or use of hovercraft is prohibited.

(f) Any person who violates these regulations may be subject to criminal penalties under section 223 or 229 of the Atomic Energy Act (42 U.S.C. 2273, 2278.a.).

§ 862.5 Voluntary minimum altitude.

In addition to complying with any applicable FAA prohibitions or restrictions, all aircraft are requested to maintain a minimum altitude of 2,000 feet above the terrain subject to these regulations. Any applicable FAA prohibition or restriction takes precedence over this voluntary minimum altitude.

§ 862.6 Radio frequency.

Aircraft may communicate with any DOE installation for emergency or non-emergency purposes by radio on the appropriate UNICOM frequency.

[FR Doc. 86-22615 Filed 10-3-86; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Reg. B; Doc. No. 0580]

Equal Credit Opportunity; Intent To Preempt Wisconsin Law

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of intent to make preemption determination.

SUMMARY: The Board is publishing for comment a proposed determination that certain provisions in Wisconsin Statutes Chapter 766 are inconsistent with the Equal Credit Opportunity Act or Regulation B. Any provision of state law that is inconsistent with the federal law, unless more protective, is preempted. (A State law is inconsistent, for example, if it requires or permits a practice or act prohibited by the Federal act or regulation.) The act and regulation prohibit discrimination in any credit transaction on the basis of race, color, national origin, religion, sex, marital status, age, receipt of income from public assistance programs, or good faith exercise of any rights under the Consumer Credit Protection Act.

DATE: Comments must be received on or before December 2, 1986.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to the guard station (Attention: Mail Services) at the courtyard entrance to the Eccles Building, on 20th Street between C Street and Constitution Avenue, NW., Washington, DC, between 8:45 a.m. and 5:15 p.m. weekdays. Comments should include a reference to Docket No. 0580. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Kathleen S. Brueger, Staff Attorney, Division of Consumer and Community Affairs, at (202) 452-2412, or Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington DC 20551.

SUPPLEMENTARY INFORMATION:

(1) General

The Board has been asked to determine whether certain provisions of Wisconsin law are inconsistent with, and therefore preempted by, the Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1601 *et seq.*, and Regulation B (12 CFR Part 202). The requests came from an oil company creditor and a trade association of financial services companies. These requests are available for public inspection and copying, subject to the Board's Rules Regarding Availability of Information (12 CFR Part 261).

Section 705(f) of the ECOA authorizes the Board to determine whether an inconsistency exists between a provision of the act and a state law relating to credit discimination. If, in addition to being inconsistent, a state law provides less protection for credit applicants than does the Federal law, that State law is preempted.

This notice of proposed preemption, based on a review of the Wisconsin provisions, is issued under authority delegated to the Director of the Division of Consumer and Community Affairs, as set forth in the Board's Rules Regarding Delegation of Authority (12 CFR Part 265).

(2) Standards for and Effect of Preemption Determination

Under the provisions of the Equal Credit Opportunity Act (section 705) and implementing Regulation B (§ 202.11), state law provisions that are inconsistent with the requirements of the act and the regulation are preempted. If the state law is more protective of an applicant, however, that state law is not inconsistent for Regulation B purposes. Section 202.11 sets forth some specific factors deemed to result in an inconsistency. A State law is inconsistent with the act and the regulation and therefore preempted if it, for example, requires or permits a practice or act prohibited by the act or regulation (§ 202.11(b)(1)(i)).

Based on comparison of the federal and State laws, the Board has made a preliminary determination that certain provisions in the Wisconsin law are inconsistent with the federal law. If the

Board ultimately adopts the proposed determination, the State law will be preempted, but only to the extent of the inconsistency. Creditors would then be barred from following the procedures outlined in the affected Wisconsin law section. Specifically, creditors would be barred from terminating accounts based upon a nonapplicant spouse's request, as presently allowed. However, Wisconsin could continue to require creditors to notify nonapplicant spouses of an extension of credit that may encumber marital property.

(3) Discussion of Wisconsin Law and Proposed Determination

Preemption determinations generally are limited to those provisions of state law identified in the request for a Board determination. At the Boad's discretion, however, other state provisions that may be affected by the federal law are also addressed. Wisconsin Statutes §§ 766.56(3)(b), 766.565(5), and 766.56(2)(d) are the primary focus of this inquiry. The language of those Wisconsin provisions is set forth below, along with Board's construction of them and an analysis of those provisions in light of Regulation B.

Section 766.56(3)(b)—Credit transactions with married persons.

This section reads as follows:

> Except as provided in paragraph (c), if a creditor extends credit to a spouse in a credit transaction governed by Chs. 421 to 427 and the Extension of credit may result in an obligation described under § 766.55(2)(b) [a marital or family purpose obligation], the creditor shall give the nonapplicant spouse written notice of the extension of credit before any payment is due. . . . Notice is considered given on the date it is mailed to the address of the nonapplicant spouse provided to the creditor by the applicant spouse. . . .

Chapters 421 to 427 referred to in this section comprise the Wisconsin Consumer Act, and the term "extends credit" here refers to open-end credit plans (as stated in § 766.56(3)(a)). Thus, this subsection requires that whenever an open-end consumer credit plan is established for an individual who is married, and the possibility exists that credit extended under the plan may result in marital or family purpose obligations, the creditor must give written notice of the credit extension to the nonapplicant spouse. Because all obligations incurred by the spouses during the course of a marriage are presumed under the statute to be marital or family purpose obligations (§ 766.31(1)), this notice requirement appears to apply to all open-end consumer credit plans established for married persons. An exception to this notice requirement is possible only if the nonapplicant spouse already has knowledge of the credit extension or waives the right to notice.

The notice requirement of § 766.56(3)(b) appears to have been included for the purpose of enabling the nonapplicant spouse to exercise the termination right outlined in § 766.565(5), discussed below. In addition, § 766.56(3)(b) implicitly requires the creditor to ask about an applicant's marital status in every application, and to ask for the name and address of the spouse if the applicant is married, in order to comply with the notice requirement.

Section 766.565(5)—Relationship to consumer act.

This section states that:

> The spouse of a person who establishes an open-end credit plan that may result in an obligation described under § 766.55(2)(b) may terminate the plan by giving written notice of termination to the creditor. A writing evidencing an open-end credit plan may include a provision that authorizes the creditor to declare the account balance due and payable upon receipt of notice of termination, notwithstanding § 425.103 or § 425.105. Notice of termination does not affect the liability of the incurring spouse or the availability of the incurring spouse's interest in marital property or other property of that spouse to satisfy obligations incurred under the open-end credit plan, both before and after the notice of termination. Subject to the limits under § 422.4155(1), the terminating spouse's interest in marital property continues to be available under § 766.55(2)(b) to satisfy obligations incurred in the interest of the marriage or family both before and after notice of the termination. A creditor may consider in its evaluation of subsequent applications for credit the fact that a prior open-end credit plan offered by the creditor and entered into by the applicant spouse has been terminated under this subsection.

This section grants the nonapplicant spouse the unilateral right to terminate an open-end credit plan whenever the conditions of the credit extension warrant notice to the nonapplicant spouse under § 766.56(3)(b).

Under § 766.565(5), any consumer credit applicants who are married are affected by this termination provision unless they can somehow guarantee that no marital or family purpose obligation will be incurred under the credit plan. Given the statutory presumption that all obligations incurred during the course of a marriage are marital or family purpose obligations, it would be necessary to establish by some special means that no marital or family purpose obligation could be incurred by the credit extension. The use of the phrase "may result" in the first sentence of § 766.565(5), moreover, suggests the legislative intent that if there is even a possibility that a marital or family purpose obligation could be incurred, the nonapplicant spouse has the right to terminate the account. The result is that whenever a married applicant applies for and is granted open-end credit, the credit plan can be terminated once the applicant's spouse receives the statutory notice of a credit extension.

The legislative council's notes to this section indicate that § 766.565(5) was intended to supplement an existing provision of Wisconsin law, § 422.4155. The latter provision allows a person with joint liability under an open-end credit plan to terminate his or her own interest in the account. In contrast, § 766.565(5) appears to go further, as discussed below, in that it allows the applicant's spouse, who has not signed the contract, to terminate and to do so with respect to the entire account.

Section 766.565(5) also permits the creditor to consider in a subsequent evaluation process the fact that an applicant's account has been closed by virtue of the spouse's unilateral termination. The clear implication is that the creditor may use a prior termination as the basis for refusing to consider opening a new account for the applicant.

Section 766.56(2)(d)—Credit transactions with married persons.

This section reads as follows:

> When a person applies for credit, the creditor may inquire as to whether the person is married, unmarried or separated, under a decree of legal separation.

Under § 766.56(2)(d), a creditor is allowed to inquire, with regard to any credit application, whether the applicant is "married, unmarried or separated, under a decree of legal separation." It is unclear from the statute whether in framing the inquiry the creditor must use the specific statutory language.

Regulation B Analysis

The Board has made a comparison of these three provisions—Wisconsin Statutes §§ 766.56(3)(b), 766.565(5) and 766.56(2)(d)—to relevant provisions of Regulation B. Based on the Board's construction and understanding of what these Wisconsin provisions require or permit, several inconsistencies with the federal law appear to exist. Where inconsistencies would result in less protection for an applicant under the Wisconsin law than under Regulation B, the state law will be preempted.

Section 202.5—Rules concerning taking of applications.

There are several potential conflicts between the Wisconsin law and provisions of § 202.5 of Regulation B

with respect to limitations on inquiries made in the application process. Section 202.5(d) contains a prohibition against inquiring into an applicant's marital status in applications for individual unsecured credit, and § 202.5(c) limits requests for information about a nonapplicant spouse. On the other hand, under § 766.56(2)(d) of the Wisconsin law, a creditor is allowed to inquire about marital status in any credit application; and, under § 766.56(3)(b), creditors would have to both inquire into the applicant's marital status and solicit the name and address of the applicant's spouse, in order to comply with the State law requiring notice to the nonapplicant spouse.

These particular conflicts are nonexistent, however, if Wisconsin is deemed to be a community property State. Regulation B provides an exception in community property States applicable both to inquiries about marital status and to information about a spouse (§ 202.5(c)(2)(iv) and (d)(1)).

Several factors point to classifying Wisconsin as a community property State in light of Wisconsin Statutes Chapter 766. Wisconsin's system of property rights incorporates various elements of a community property system. Each spouse is a present owner of an undivided one-half interest in any property acquired by the spouses during the marriage. Each has equal management and control of all marital property (unless the property is titled, in which case the rules that govern will depend on how title is worded). For purposes of applying for credit, one spouse alone may manage and control all the marital property. The Wisconsin scheme also utilizes a presumption common to other community property systems—that all debts incurred during the marriage are communal, and that as a result, each spouse is responsible for such debts in the sense that satisfaction can be had from the community property. Finally, there is the express legislative intent that Wisconsin be considered a community property State, as evidenced by § 766.001(2) of the Wisconsin law. That provision reads: "It is the intent of the legislature that marital property is a form of community property."

In sum, the Board believes there is strong support for viewing Wisconsin as a community property State for purposes of Regulation B. It would be permissible, therefore, for creditors to obtain information about the nonapplicant spouse, as allowed under § 202.5(c)(2)(iv) of Regulation B, and to ask about marital status as permitted by § 202.5(d)(1).

There remains the question of the language used in Wisconsin Statutes § 766.56(2)(d) regarding the creditor's marital status inquiry. Under § 202.5(d)(1) of Regulation B, the creditor is only allowed to frame a marital status inquiry in terms of "married," "unmarried," and "separated." If the intent of the Wisconsin provision (which uses the wording "separated, under a decree of legal separation") is merely to make clear the nature of the permissible inquiry but not to require that any particular language be used, the provision is not inconsistent because a creditor is able to comply both with the Wisconsin and with the Federal law. Based on this construction, the Wisconsin law on marital status inquiries would not be preempted by Regulation B.

Section 202.7—Rules concerning extensions of credit.

Section 202.7(a) of Regulation B prohibits creditors from refusing to grant an individual account to a creditworthy applicant on the basis of the applicant's marital status. Under § 766.565(5), the nonapplicant spouse is able to unilaterally terminate an account, leaving the applicant unable, in effect, to get an open-end extension of credit from that creditor. Similarly, the creditor is permitted to consider in the evaluation process a prior termination by the spouse—and to refuse on that basis to open a new account for the applicant. The Wisconsin provision may operate to effectively nullify the right of a creditworthy married applicant to have individual credit extended. It is both inconsistent with Regulation B, because it ". . . permits a practice or act prohibited by the act or this regulation" (§ 202.11(b)(1)(i)), and less protective because it can result in a restriction of a creditworthy applicant's access to credit.

Section 202.11—Relation to State law.

Section 202.11(d) of Regulation B (which implements section 705(b) of the ECOA) provides that the preemption provisions of the federal law do not alter or annual any provisions of "state property laws." The Board has considered whether Wisconsin Statutes § 766.565(5) might fall within the ambit of § 202.11(d); if so, it would be allowed to stand, notwithstanding its impact on married applicants.

After appropriate review and analysis, the Board has determined that while § 766.565(5) is contained within marital property provisions, this section does not constitute property law, but merely establishes a relationship to provisions in the Wisconsin Consumer Act governing the liability that can be imposed on a nonapplicant spouse. Section 766.565(5) is therefore not entitled to special deference for purposes of preemption.

Effect of Preemption

If the proposed determination of preemption is adopted in final form, creditors in Wisconsin would be barred from terminating the account in response to a request from the nonapplicant spouse. A creditor could, however, continue to send the notice required by § 766.56(3)(b), which makes no mention of the right to terminate the account. Further, because the Board's proposed preemption of § 766.565(5) goes only to the right of unilateral termination, it would not affect the rest of § 766.565(5) with respect to the applicability of § 422.4155(1), the section that presently governs the availability of the nonapplicant spouse's interest in marital property to satisfy obligations incurred under the open-end plan, and the availability of the applicant's interest in the marital property to satisfy obligations.

(4) Comment Requested

Interested persons are invited to submit comments regarding the proposed finding that the termination provision of Wisconsin Statutes § 766.565(5) is preempted by Regulation B. After the close of the comment period and analysis of the comments received, notice of final action will be published in the **Federal Register.**

List of Subjects in 12 CFR Part 202

Banks, Banking, Civil rights, Consumer protection, Credit, Federal Reserve System, Marital status discrimination, Minority groups, Penalties, Sex discrimination, Women.

Board of Governors of the Federal Reserve System, September 29, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-22523 Filed 10-3-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. NM-20; Notice No. SC-86-2-NM]

Special Conditions: Fokker B.V. Model F27 MK050 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Fokker B.V. Model F27 MK050 airplane. The airplane will have novel or unusual design features associated with an automatic takeoff power control system (ATPCS) for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. This notice contains the safety standards which the Administrator finds necessary, because of these design features, to establish a level of safety equivalent to that established in the regulations.

DATE: Comments must be received on or before November 20, 1986.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-20, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; or delivered in duplicate to the Office of the Regional Counsel at the above address. Comments must be marked: Docket No. NM-20. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James Walker, Transport Standards Staff, ANM-110, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2116.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons re invited to participate in the making of the proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on this proposal. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-20." The postcard will be date/time stamped, and returned to the commenter.

Background

On July 31, 1985, Fokker B.V., 1117 ZJ Schiphol, the Netherlands, made an application to the Federal Aviation Administration (FAA), for an amended Type Certificate (TC) for the Fokker F27 MK050 airplane, which will be equipped with two Pratt & Whitney Model PW-124 engines having an ATPCS installed.

The Fokker F27 airplane, Model F27 MK050 is a high wing, pressurized transport category airplane with a certificated takeoff gross weight of 41,865 pounds (optional 45,900 pounds). The airplane has a maximum permissible altitude of 25,000 feet and a total occupancy of 50 persons. The airplane will be equipped with two Pratt and Whitney of Canada Model PW-124 engines each rated at 2,400 shaft horsepower for maximum takeoff power at sea level standard day and Dowty-Rotol 6-bladed constant speed propellers. The powerplant installation will incorporate an ATPCS. The ATPCS is designed to automatically increase the power on the operating engine to the maximum installed power approved for the takeoff ambient conditions, in the event an engine fails during the takeoff.

Special conditions are necessary to provide a level of safety equal to that established by the regulations incorporated by reference in the type certificate and the certification basis for the airplane, and to support a finding by the Administrator that no feature or characteristic of the airplane with the ATPCS installed makes it unsafe for the category in which certification is requested. These special conditions specify limits on the maximum power increment which may be applied to the operating engines by the ATPCS, prescribe system reliability and status monitoring requirements, require provisions for manual selection of the maximum takeoff power approved for the airplane under existing conditions, prohibit approval of the system if the automatic or manual application of maximum takeoff power would result in an engine operating limit being exceeded, and require the installation of an independent engine failure warning system if the inherent characteristics of the airplane do not provide a clear warning to the crew.

Type Certification Basis

The proposed type certification basis for the Fokker F27 MK050 airplane with the ATPCS installed is:

Part 25 of the FAR dated February 1, 1965, as amended by Amendments 25-1 through 25-56, 25-58 and 25-59, except for the following sections which will be certified to earlier amendments as noted: § 25.109, Amendment 25-41; § 25.631 (not applicable, § 25.631 was added by Amendment 25-23); § 25.671(c)(3), Amendment 25-22; § 25.701, Amendment 25-22 and § 25.1309, Amendment 25-22. The automatic flight control system will comply with § 25.1309 as amended by Amendment 25-56.

Part 36 of the FAR with amendments in effect at the time the type certificate is issued.

Special Federal Aviaton Regulations (SFAR) 27 with amendments in effect at the time the type certificate is issued.

Equivalent safety findings for § 25.777(e) (Flap handle location), § 25.781 (Flap handle shape); § 25.729(e)(4) (Landing gear position indicator and warning device) and these special conditions proposed for the automatic takeoff power control system and any exemptions that may be developed and issued for this airplane series.

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 21

Air transportation, Aircraft, Aviation safety.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions for the Fokker F27 MK050 airplane equipped with an automatic takeoff power control system (ATPCS).

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

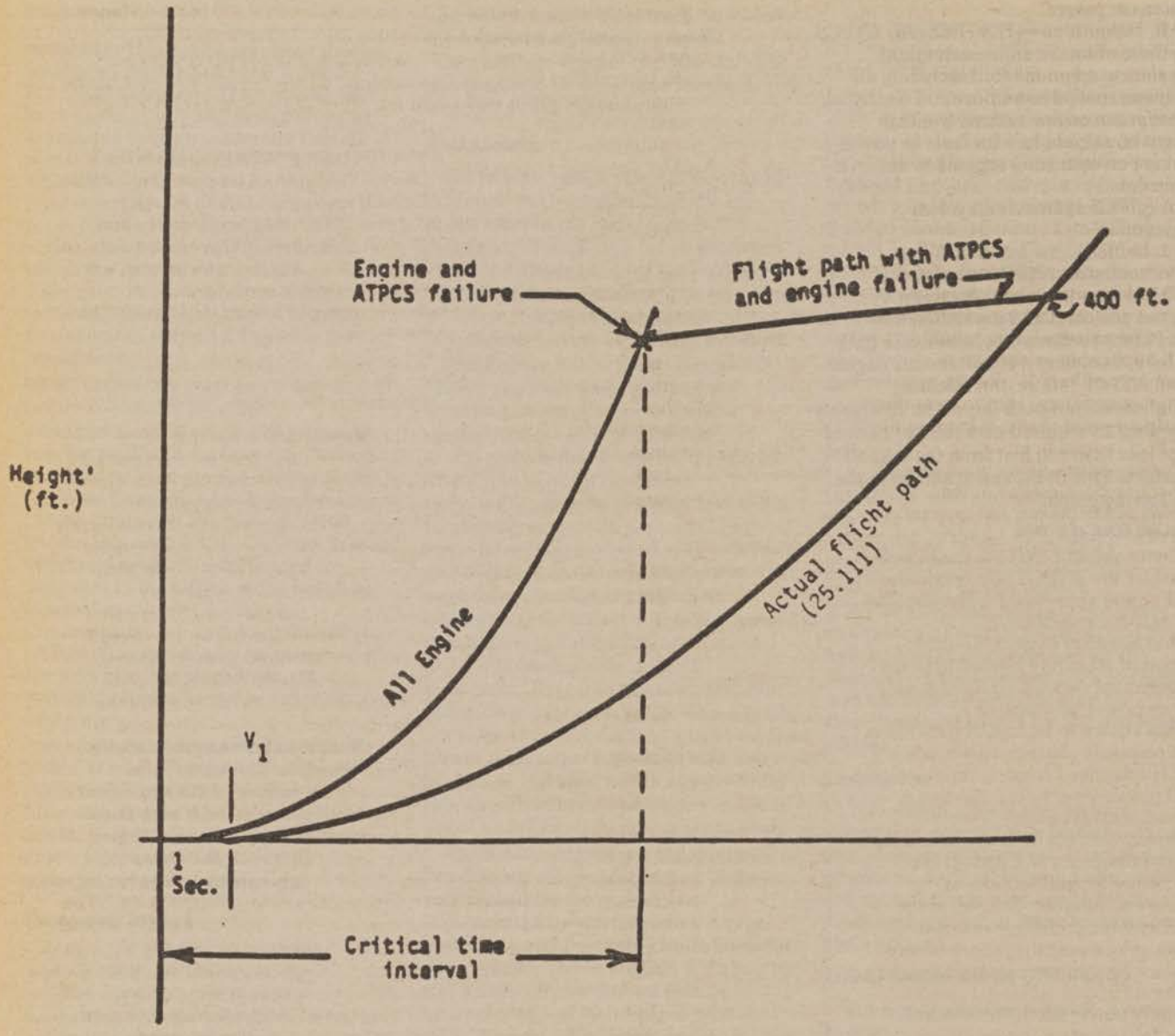
A. *General*—With the ATPCS and associated systems functioning normally as designed, all applicable requirements of Part 25, except as provided in these special conditions, must be met without

requiring any action by the crew to increase power.

B. *Definitions*—(1) *ATPCS.* An ATPCS is defined as the entire automatic system used on takeoff, including all devices, both mechanical and electrical, that sense engine failure, transmit signals, actuate fuel controls or power levers on operating engines to achieve scheduled power increase, and furnish cockpit information on system operation.

2. *Critical time interval.* When conducting an ATPCS takeoff, the critical time interval is between V_1 minus 1 second and a point on the minimum performance, all-engine path where, assuming a simultaneous engine and ATPCS failure, the resulting minimum flight path thereafter intersects the Part 25 required actual flight path at not less than 400 feet from the takeoff surface. This definition is shown in the following graph.

BILLING CODE 4910-13-M



BILLING CODE 4910-13-C

3. *Takeoff power.* Notwithstanding the definition of "takeoff power" in Part 1 of the FAR, "takeoff power" means the horsepower obtained from each initial power setting approved for takeoff under these special conditions.

C. *Performance requirements*—The applicant must comply with the following performance and reilability requirements.

1. An ATPCS system failure during the critical time interval must be shown to be improbable.

2. The concurrent existence of an ATPCS failure and an engine failure during the critical time interval must be shown to be extremely improbable.

3. All applicable performance requirements of Part 25 must be met with an engine failure occurring at the most critical point during takeoff with the ATPCS system functioning.

D. *Power setting*—The initial takeoff power set on each engine at the beginning of the takeoff roll may not be less than:

1. Ninety percent (90%) of the power level set by the ATPCS (the maximum takeoff power approved for the airplane under existing conditions);

2. That required to permit normal operation of all safety related systems and equipment dependent upon engine power or power position; or

3. That shown to be free of hazardous engine response characteristics when power is advanced from the initial takeoff power level to the maximum approved takeoff power.

E. *Powerplant controls*—1. In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATPCS system, including associated systems, may cause the failure of any pererplant funciton necessary for safety.

2. The ATPCS must be designed to:

a. Apply power on the operating engine, following an engine failure during takeoff, to achieve the selected takeoff power without exceeding engine operating limits;

b. Permit manual decrease or increase in power up to the maximum takeoff power approved for the airplane under existing conditions through the use of the power lever, except that for aircraft equipped with limiters that automatically prevent engine operating limits from being exceeded under existing conditions, other means may be used to increase the maximum level of power controlled by the power levers in the event of an ATPCS failure. In this case, the means must be located on or forward of the power levers, must be easily identified and operated under all operating conditions by a single action of either pilot with the hand that is normally used to actuate the power levers, and must meet the requirements of § 25.777, paragraphs (a), (b), and (c);

c. Provide a means to verify to the flightcrew prior to takeoff that the ATPCS is in a condition to operate; and

d. Provide a means for the flightcrew to deactivate the automatic function. This means must be designed to prevent inadvertent deactivation.

F. *Powerplant instruments*—In addition to the requirements of § 25.1305:

1. A means must be provided to indicate when the ATPCS is in the armed or ready condition; and

2. If the inherent flight characteristics of the airplane do not provide adequate warning that an engine has failed, a warning system that is independent of the ATPCS must be provided to give the pilot a clear warning of any engine failure during takeoff.

Issued in Seattle, Washington, on September 24, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-22506 Filed 10-3-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AWA-61]

Proposed Alteration and Establishment of VOR Federal Airways; Expanded East Coast Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of Federal Airways V-312, V-6, V-408, V-93, V-3, V-147 and V-457 and establish new Federal Airway V-605. This proposal is part of the Expanded East Coast Plan (EECP). The EECP's objective is to establish an improved air traffic system that is designed to reduce delays for aircraft en route to or departing from terminals in the eastern United States. The EECP is being implemented in several segments until completed.

DATE: Comments must be received on or before November 12, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Eastern Region, Attention: Manager, Air Traffic Division, Docket No. 86-AWA-61, Federal Aviation Administration, JFK International Airport, The Fitzgerald Federal Building, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during nornal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWA-61." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC. 20591, or by calling (202) 267-3484. Communications must

identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V-312, V-6, V-408, V-93, V-3, V-147 and V-457 and establish new Federal Airway V-605. Currently, east coast traffic flows are saturated and compressed in the New York metropolitan area to the point that substantial delays are experienced daily. The FAA has developed an Expanded East Coast Plan (EECP) to alleviate this congestion and reduce delays to and from terminals in the eastern United States. The airway actions proposed are part of this plan. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-312 [Amended]

By removing the words "Sea Isle, NJ, 050° radials." and substituting the words "Kennedy, NY, 148°T(160°M) radials."

V-6 [Amended]

By removing the words "to Broadway, NJ," and substituting the words "Solberg, NJ; INT Solberg 105°T(115°M) and Canarsie, NY, 245°T(256°M) radials; INT Canarsie 245°T(256°M) and LaGuardia, NY 209°T(221°M) radials; to LaGuardia,"

V-408 [Revised]

From Baltimore, MD; INT Baltimore 004°T(012°M) and Lancaster, PA, 204°T(213°M) radials; INT Lancaster 204°T(213°M) and Modena, PA, 261°T(270°M) radials; Modena; INT Modena 016°T(025°M) and Pottstown, PA, 196°T(205°M) radials; Pottstown; INT Pottstown 345°T(354°M) and East Texas, PA, 165°T(174°M) radials; East Texas; INT East Texas 050°T(059°M) and Allentown, PA, 230°T(240°M) radials; Allentown; INT Allentown 358°T(008°M) and Lake Henry, PA; Lake Henry; INT Lake Henry 056°T(066°M) and Chester, MA, 256°T(270°M) radials; to Chester.

V-605 [New]

From Gardner, MA; INT Barnes, MA, 265°T(279°M) and Hancock, NY, 091°T(102°M) radials; to Hancock.

V-93 [Amended]

By removing the words "Baltimore; Lancaster, PA;" and substituting the words "Baltimore; INT Baltimore 004°T(012°M) and Lancaster, PA, 204°T(213°M) radials; Lancaster;"

V-3 [Amended]

By removing the words "Solberg, NJ; Carmel, NY;" and substituting the words "Solberg, NJ; INT Solberg 044°T(054°M) and Carmel, NY, 243°T(255°M) radials; Carmel;"

V-147 [Revised]

From Yardley, PA; INT Yardley 294°T(304°M) and East Texas, PA, 124°T(133°M) radials; East Texas; Wilkes-Barre, PA; Elmira, NY; Geneseo, NY; to Rochester, NY.

V-457 [Revised]

From Broadway, NJ; Lancaster, PA; Westminster, MD; to Martinsburg, WV.

Issued in Washington, DC, on September 26, 1986.

O.E. Falsetti

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-22507 Filed 10-3-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 75

[Airspace Docket No. 86-AWA-63]

Proposed Alteration of VOR Federal Airways and Jet Routes; Expanded East Coast Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of Federal Airways V-31, V-34, V-164, V-252, V-265 and Jet Route J-77. These proposals are part of the Expanded East Coast Plan (EECP). The EECP's objective is to establish an improved air traffic system that is designed to reduce delays for aircraft en route to or departing from terminals in the eastern United States. The EECP is being implemented in several segments until completed.

DATE: Comments must be received on or before November 12, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Eastern Region, Attention: Manager, Air Traffic Division, Docket No. 86-AWA-63, Federal Aviation Administration, JFK International Airport, The Fitzgerald Federal Building, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington DC. 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or agruments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal.

Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWA-63." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC. 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposals

The FAA is considering amendments to Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V-31, V-34, V-164, V-252, V-265 and Jet Route J-77. Currently, east coast traffic flows are saturated and compressed in the New York metropolitan area to the point that substantial delays are experienced daily. The FAA has developed an Expanded East Coast Plan (EECP) to alleviate this congestion and reduce delays to and from terminals in the eastern United States. The airway and jet route actions proposed are part of this plan. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, VOR Federal airways, Jet routes.

The Proposed Amendments

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V-31 [Amended]

By removing the words "INT Rochester 289° and Kleinburg, ON, Canada, 133° radials;" and by substituting the words "INT Rochester 279°T(288°M) and Geneseo, NY, 304°T(313°M) radials; INT Geneseo 304°T(313°M) and Kleinburg, ON, Canada, 133°T(142°M) radials;"

V-34 [Amended]

By removing the words "From Kleinburg, ON, Canada, INT Kleinburg 113° and Rochester, NY, 309° radials; Rochester;" and by substituting the words "From Rochester, NY;" and by removing the words "The airspace within Canada and R-5207 is excluded."

V-164 [Amended]

By removing the words "From Toronto, ON, Canada, via Toronto 172° and Buffalo, NY, 294° radials;" and by substituting the words "From Kleinburg, ON, Canada, INT Kleinburg 133°T(142°M) and Buffalo, NY, 338°T(346°M) radials;"

V-252 [Amended]

From Kleinburg, ON, Canada; INT Kleinburg 133°T(142°M) and Geneseo, NY, 304°T(313°M) radials; Geneseo; Binghamton, NY; to Hugenot, NY. The airspace within Canada is excluded.

V-265 [Amended]

By removing the words "Dunkirk, NY." and by substituting the words "Dunkirk, NY; INT Dunkirk 325°T(332°M) and Toronto, ON, Canada, 187°T(196°M) radials; Toronto. The airspace within Canada is excluded."

PART 75—[AMENDED]

3. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

4. § 75.100 is amended as follows:

J-77 [Revised]

From Boston, MA; Barnes, MA; Sparta, NJ; Broadway, NJ; Pottstown, PA; to Westminster, MD.

Issued in Washington, DC, on September 26, 1986.

O.E. Falsetti,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-22508 Filed 10-3-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Parts 353 and 355

[Docket No. 60958-6158]

Antidumping and Countervailing Duties; de minimis Dumping Margins and de minimis Countervailable Subsidies

AGENCY: International Trade Administration; Department of Commerce.

ACTION: Proposed rule and request for public comments.

SUMMARY: The International Trade Administration proposes to amend the regulations on antidumping duties (19 CFR Part 353) and countervailing duties (19 CFR Part 355) to disregard any weighted-average dumping margin and any net subsidy that is *de minimis.* For this purpose, the proposed rule defines *de minimis* at less than 0.5 percent *ad valorem* or the equivalent.

DATE: Written comments must be received not later than November 20, 1986.

ADDRESS: Address written comments (10 copies) to Gilbert B. Kaplan, Deputy Assistant Secretary for Import Administration, Room B-099, U.S.

Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell, Deputy Chief Counsel for Import Administration, Room B-099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230; (202) 377-1411.

SUPPLEMENTARY INFORMATION:

Background

When the International Trade Administration (ITA) in 1980 promulgated final rules concerning antidumping and countervailing duties (19 CFR Parts 353 and 355, respectively), it did not include a provision for disregarding *de minimis* dumping margins or net subsidies. In practice, however, the ITA has considered weighted-average dumping margins and aggregated net subsidies of less than 0.5 percent *ad valorem* or the equivalent as *de minimis* and has disregarded them.

In *Carlisle Tire and Rubber Co. v. United States*, _____ C.I.T. _____, Slip Op. 86-45 (April 29, 1986), the Court of International Trade held that the ITA must either promulgate a rule in accordance with the notice and comment procedures of the Administrative Procedure Act establishing 0.5 percent as the *de minimis* standard for its determinations, or it must explain the basis for each determination in which it decides that a weighted-average dumping margin below 0.5 percent is *de minimis*.

Accordingly, the ITA is publishing this notice of proposed rulemaking and request for pulbic comments to establish the general rule that a weighted-average dumping margin or an aggregated level of net subsidization of less than 0.5 percent *ad valorem* or the equivalent is *de minimis* and will be disregarded for purposes of the preliminary and final determinations in antidumping and countervailing duty proceedings. The ITA will continue to instruct the Customs Service to assess antidumping duties regardless of the size of the dumping margin on each individual transaction, consistent with its practice since 1980.

2. Description

The proposed rule would add a new § 353.24 to the current antidumping regulations (19 CFR Part 353) and add a new § 355.8 to the current countervailing duty regulations (19 CFR Part 355). These additions are described below.

1. *Section 353.24.* The proposed rule would add a new § 353.24 consisting of three paragraphs.

Paragraph (a) would state that the Secretary will disregard any weighted-average dumping margin that is less than 0.5 percent *ad valorem* or the equivalent. Since 1980 the ITA has consistently applied this standard for *de minimis*.

Paragraph (b)(1) would define "dumping margin" as the amount, by which the fair value or foreign market value exceeds the United States price of the merchandise, as determined by the Secretary. This is the amount of dumping duty that the Secretary instructs the Customs Service to assess on the merchandise under section 751 of the Tariff Act of 1930, as amended (the "Act") (19 U.S.C. 1675).

Paragraph (b)(2) would define "weighted-average dumping margin" as the percentage which the total of all dumping margins, as defined in paragraph (b)(1), comprises of the total U.S. prices for all entries of the merchandise into the United States during the period investigated or reviewed. In fair value investigations, the ITA calculates a weighted-average dumping margin for each company investigate; in administrative reviews, for cash deposit purposes only the ITA calculates a weighted-average dumping margin for each company reviewed. In addition, in fair value investigations the ITA calculates a weighted-average dumping margin for all companies not specifically investigated, and this margin is a weighted average of the weighted-average margins (above *de minimis*) for each company investigated. In administrative reviews, for new firms, that is firms not previously investigated, for cash deposit purposes the ITA uses the highest weighted-average dumping margin for reviewed firms with shipments during the review period. The weighted-average dumping margin is usually expressed as a percentage of U.S. price and, therefore, is sometimes referred to as the *ad valorem* dumping margin. It is the amount used to establish the bond or cash deposit requirement.

Paragraph (c) would state that for the purpose of assessing dumping duties, the Secretary will take into account *de minimis* dumping margins. Therefore, paragraph (a) would not apply to references to the assessment of duties that are found in 19 CFR 353.48, 353.50, and 353.53. Paragraph (c) is intended to clarify that paragraph (a) would apply to the following determinations: preliminary determinations and application of provisional measures described in 19 CFR 353.39, final determinations and deposit requirements described in 29 CFR 353.44, exclusions under 19 CFR 353.45, deposit requirements under 19 CFR 353.48, administrative review determinations (other than assessment determinations) and deposit requirements under § 353.53, and revocation determinations under 19 CFR 353.54.

2. *Section 355.8.* The proposed rule would add a new § 355.8 to 19 CFR Part 355 stating that the Secretary will disregard any aggregate net subsidy, as defined in section 771(6) of the Act (19 U.S.C. 1677(6)), that the Secretary determines is less than 0.5 percent *ad valorem* or the equivalent. Since 1980 the ITA has consistently applied this standard for *de minimis*.

Section 355.8 would apply to the assessment of countervailing duties as well as to all determinations of aggregate net subsidies under 19 CFR 355.28, 355.31, 355.33, 355.38, 355.41, and 355.42.

3. Executive Order 12291

The ITA has determined that the proposed revisions of the current antidumping and countervailing duty regulations in 19 CFR Parts 353 and 355, respectively, are not major rules as defined in section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981) because they will not: (1) Have a major monetary effect on the economy; (2) Result in a major increase in costs or prices; or (3) Have a significant adverse effect on competition (domestic or foreign), employment, investment, productivity, or innovation.

4. Regulatory Flexibility Act

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small business entities because it does not change existing practices. As a result, an initial Regulatory Flexibility Analysis was not prepared.

5. Paperwork Reduction Act

This rule does not contain a provision for collection of information that is subject to the requirements of the Paperwork Reduction Act.

List of Subjects in 19 CFR Parts 353 and 355

Business and industry, Foreign trade, Imports, Trade practices.

Dated: September 26, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

PART 353—[AMENDED]

For the reasons stated in the preamble, we propose to amend 19 CFR Part 353 and 355 as follows:

1. The authority citation for 19 CFR Part 353 continues to read as follows:

Authority: 5 U.S.C. 301, and subtitle IV, parts, II, III, and IV of the Tariff Act of 1930, as amended by Title I of the Trade Agreements Act of 1979, Pub. L. 96–39, 93 Stat. 150, and section 221 and Title VI of the Trade and Tariff Act of 1984, Pub. L. 98–573, 98 Stat. 2948.

2. A new § 353.24 is added to 19 CFR Part 353, Subpart A, to read as follows:

§ 353.24 De minimis weighted-average dumping margin.

(a) *Disregarding de minimis weighted-average dumping margin.* For purposes of this part, the Secretary will disregard any weighted-average dumping margin, as defined in paragraph (b), that is less than 0.5 percent *ad valorem*, or the equivalent.

(b) *Dumping margin and weighted-average dumping margin defined.* (1) The "dumping margin" is the amount by which the fair value or foreign market value, as applicable, exceeds the United States price, as determined by the Secretary under this part.

(2) The "weighted-average dumping margin" is the result of dividing the sum of the dumping margins determined in an investigation or an administrative review under this part, by the sum of the United States prices calculated in the same investigation or review.

(c) *Assessment of de minimis margins.* For purposes of assessment of a dumping duty, the Secretary will not disregard any *de minimis* dumping margin.

PART 355—[AMENDED]

3. The authority citation for 19 CFR Part 355 continues to read as follows:

Authority: 5 U.S.C. 301: 19 U.S.C. 1303; 19 U.S.C. 2501 note; subtitle IV, parts I, III, and IV of the Tariff Act of 1930, as amended by Title I of the Trade Agreements Act of 1979, Pub. L. 96–39, 93 Stat. 150, and section 221 and Title VI of the Trade and Tariff Act of 1984, Pub. L. 98–573, 98 Stat. 2948.

4. A new § 355.8 is added to 19 CFR Part 355 to read as follows:

§ 355.8 De minimis net subsidy disregarded.

For purposes of this part, the Secretary will disregard any aggregate net subsidy that the Secretary determines is less than 0.5 percent *ad valorem*, or the equivalent.

[FR Doc. 86–22594 Filed 10–3–86; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 812

[Docket No. 84P-0387]

The American Society for Artificial Internal Organs; Petition To Amend Investigational Device Exemption Regulations; Reopening of Comments Period.

AGENCY: Food and Drug Administration.

ACTION: Notice of citizen petition; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the time within which interested persons may submit to FDA comments on a citizen petition submitted by the American Society for Artificial Internal Organs (ASAIO) requesting the agency to amend its investigational device exemption (IDE) regulations. The requested amendments would allow certain limited investigations of significant risk medical devices to be subject to abbreviated IDE requirements.

DATE: Comments by November 21, 1986.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Les Weinstein, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 1, 1986 (51 FR 11266), FDA published a notice announcing the agency's receipt from the ASAIO of a citizen petition requesting FDA to amend its IDE regulations (21 CFR Part 812). In that notice, FDA provided a comment period of 90 days (until June 30, 1986). FDA received only a few comments on this notice institutional review boards (IRB's) and other interested persons. Many IRB's meet infrequently and FDA believes that some IRB's were unable to review the notice and submit comments within the 90-day comment period. Therefore, FDA is reopening the comment period on the notice of April 1, 1986. FDA is closing the reopened comment period on November 21, 1986, to coincide with the closing of an extended comment period FDA is providing in a related notice, as shown below.

In the **Federal Register** of July 25, 1986 (51 FR 26830), FDA published a notice announcing its retrospective review of the IDE regulations and requesting comments, data, and information on these regulations. In that notice, FDA provided a comment period of 60 days (until September 23, 1986). Elsewhere in this issue of the **Federal Register**, in response to receiving two requests for extension of the comment period, FDA is published a notice extending until November 21, 1986, the comment period on the notice of July 25, 1986.

In accordance with section 520(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(d)) and the agency's administrative practices and procedures regulations (21 CFR Part 10), FDA believes that good cause exists to reopen the comment period to allow further comment period and close the comment period again on November 21, 1986, to provide a total comment period in excess of 90 days.

Interested persons may, on or before November 21, 1986, submit to the Dockets Management Branch (address above) written comments on the ASAIO petition. Two copies of any comments should be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 29, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–22515 Filed 10–3–86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 812

[Docket No. 86N-0072]

Review of Investigational Device Exemption Regulations; Invitation To Submit Comments, Data, and Information; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Notice of inquiry; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the time within which interested persons

may submit to FDA comments, data, and information to assist the agency in assessing the benefits, costs, and need for revision of its investigational device exemption (IDE) regulations.

DATE: Comments, data, and information by November 21, 1986.

ADDRESS: Written comments, data, and information to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond F. Coakley, Jr., Center for Devices and Radiological Health (HFZ–83), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 25, 1986 (51 FR 26830), FDA published a notice requesting submission of comments, data, and information on FDA's IDE regulations (21 CFR Part 812) to assist the agency in assessing the benefits, costs, and need for revision of these regulations as part of FDA's retrospective review of regulations. In that notice, FDA provided a comment period of 60 days (until September 23, 1986). In response to receiving requests for extension of this comment period from a professional association and a trade association, FDA is extending the comment period on this notice for 60 days (until November 21, 1986). FDA is closing the extended comment period on November 21, 1986, to match the close of the reopened and extended comment period FDA is providing in a related notice, as shown below.

In the **Federal Register** of April 1, 1986 (51 FR 11266), FDA published a notice announcing the agency's receipt from the American Society for Artificial Internal Organs of a citizen petition requesting FDA to amend its IDE regulations. In that notice, FDA provided a comment period of 90 days (until June 30, 1986). Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice reopening the comment period on the notice of April 1, 1986. FDA is closing the reopened comment period on November 21, 1986.

In accordance with section 520(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(d)) and the agency's administrative practices and procedures regulations (21 CFR Part 10), FDA believes that good cause exists to extend the comment period on the notice of July 25, 1986, to provide a total comment period in excess of 90 days.

Interested persons may, on or before November 21, 1986, submit to the Dockets Management Branch (address above) written comments, data, or information on the retrospective review of the IDE regulations. Two copies of any comments should be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 29, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–22514 Filed 10–3–86; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 120

Reimbursement of the Ute Tribe of the Uintah and Ouray Reservation, Utah

August 21, 1986.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed removal of rule..

SUMMARY: The Bureau of Indian Affairs is publishing a proposed rule that removes 25 CFR Part 120, Reimbursement of the Ute Tribe of Uintah and ouray Reservation, Utah. It has been determined that there is no further need for or applicability of the rule.

DATE: Comments must be received on or before November 5, 1986.

ADDRESSES: Send written comments to Director, Office of Administration, Bureau of Indian Affairs, Room 4143—Main Interior, 1951 Constitution Avenue, NW., Washington, DC 20245: telephone number (202) 343–4174.

FOR FURTHER INFORMATION CONTACT: Mitchell Parks, Division of Accounting Management, Bureau of Indian Affairs, Room 4623, N. Interior, 1951 Constitution Avenue, NW., Washington, DC 20245, telephone number: (202) 343–4594 (FTS 343–4594).

SUPPLEMENTARY INFORMATION: The authority to remove this rule and regulation is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 9. This proposed rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in the Departmental Manual at 209 DM 8..

This regulation, found at 25 CFR Part 120, Reimbursement of the Ute Tribe of the Uintah and Ouray Reservation, Utah, is being removed because it has been determined that there is no further need for the rule. The rule governed the one-time payment to those persons whose names appeared on the final roll of mixed blood-Indians that was prepared pursuant to Section 8 of the Act of August 27, 1954 (68 Stat. 868) or to their heirs or legatees. Claims for reimbursement were required to be filed not later than September 18, 1973. Final payments were made and no claims or appeals have been filed with the Bureau of Indian Affairs since that date. Therefore, there is no further need for or applicability of this rule.

The Department of the Interior has determined that this rule is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule does not constitute a major federal action significantly affecting the quality of the human environment under the National Environmental Polilcy Act of 1969.

The Office of Management and Budget has informed the Bureau of Indian Affairs that the information collections contained in this regulation need not be reviewed by them under the Paperwork Reduction Act.

List of Subjects in 25 CFR Part 120

Indians-claims, Indians-judgment funds.

PART 120—[REMOVED]

Accordingly, Part 120 of Chapter 1 of Title 25 of the Code of Federal Regulations is hereby proposed to be removed.

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

[FR Doc. 86–22579 Filed 10–3–86; 8:45 am]

BILLING CODE 4310–02–M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Public Comment and Opportunity for Public Hearing on a Modification to the Kentucky Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for the public comment

period and for a public hearing on the substantive adequacy of certain program amendments submitted by the Commonwealth of Kentucky as a modification to the Kentucky permanent program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments pertain to the establishment and implementation of a bond pool to supplement reduced performance bonding of surface mining operations. The amendments are intended to implement the provisions of Kentucky Senate Bill No. 130 which was approved by OSMRE on July 18, 1986 (51 FR 26002). The proposed rules are also intended to address the requirement at 30 CFR 917.16(c)(1) that prior to implementation of Senate Bill 130, Kentucky must submit to the Director and obtain his approval of regulatory amendments to implement the bill.

This notice sets forth the times and location that the Kentucky program and the proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comments not received on or before November 5, 1986, will not necessarily be considered.

If requested, a public hearing on the proposed modifications will be held on October 31, 1986, beginning at 10:00 a.m. at the location shown below under **"ADDRESSES."**

ADDRESSES: Written comments should be mailed or hand delivered to: W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504; Telephone: (606) 233–7327.

If a public hearing in held, its location will be: The Harley Hotel 2143 North Broadway, Lexington, Kentucky 40504.

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Director, Lexington Field Office, 340 Legion Drive, Site 28, Lexington, Kentucky 40504; Telephone: (606) 233–7327.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Kentucky program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSMRE Offices and the Office of State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

Office of Surface Mining Reclamation and Enforcement, Room 5315 A, 1100 "L" Street, NW., Washington, DC 20240.

Bureau of Surface Mining Reclamation and Enforcement, Capitol Plaza Tower, Third Floor, Frankfort, Kentucky 40601.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Lexington, Kentucky Field Office will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business ten working days before the date of the hearing. If no one requests to comment at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Submission of written statements at the time of the hearing is requested and will greatly assist the transcriber.

Submission of written statements in advance of the hearing will allow OSMRE officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting at the OSMRE office listed under **"ADDRESSES"** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Kentucky State Program

On December 30 1981, Kentucky resubmitted its proposed regulatory program to OSMRE. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register** (47 FR 21404–21435).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register** notice. Subsequent action concerning the conditions of approval and program amendments are identified in 30 CFR 917.11, 917.15, 917.16 and 917.17.

III. Submission of Program Amendments

On September 5, 1986, Kentucky submitted to OSMRE, pursuant to 30 CFR 732.17, certain revisions to the Kentucky regulatory program. The revisions are intended to implement Kentucky Senate Bill No. 130 (codified at KRS 350.700 through 350.990) which was approved by the Director, OSMRE, on July 18, 1986 (51 FR 26002). The proposed rules are also intended to address the requirement at 30 CFR 917.16(c)(1) which states that Kentucky is required, prior to implementation of Senate Bill 130, to submit to the Director proposed regulations to implement the bill and to receive the Director's approval of the regulations.

To implement Senate Bill 130 (KRS 350.700 *et seq.*), the Natural Resources and Environmental Protection Cabinet has promulgated an emergency regulation, 405 KAR 10:200E. The Cabinet also filed a proposed regulation (405 KAR 10:200) which will be processed through Kentucky's ordinary regulation promulgation process. The proposed regulation, 405 KAR 10:200, will eventually supersede the emergency regulation. Copies of both regulations have been submitted for OSMRE review and approval. The contents of the proposed regulation are identical to

emergency regulation. Both 405 KAR 10:200E and 405 KAR 10:200 are briefly summarized below.

405 KAR 10:200E and 405 KAR 10:200 implement an alternative bonding program known as a bond pool. These regulations establish requirements for applications for membership in the bond pool; procedures for submittal of, review of, and decisions on such applications, including determinations of financial standing and reclamaton compliance records of applicants; procedures for acceptance of specific permit areas into coverage by the bond pool; and procedures for keeping of production records, reporting of production, and payment of fees based on coal production. Membership in the Kentucky bond pool is voluntary. Members must meet the minimum requirements set forth in KRS 350. 720, and those contained in sections 6, 7 and 9 of the proposed amendments.

Therefore, the Director, OSMRE, is seeking public comment on the adequacy of the proposed program amendments. Comments should specifically address whether the proposed amendments are in accordance with SMCRA and no less effective than its implementing regulations.

IV. Additional Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 30, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services.

[FR Doc. 86-22571 Filed 10-3-86; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 934

Public Comment Period and Opportunity for Public Hearing on an Amendment to the North Dakota Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and for a public hearing on the adequacy of an amendment submitted by the State of North Dakota to amend its permanent regulatory program which was approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of modifications to the State's minimum coverage requirements for liability insurance.

This notice sets forth the times and locations that the proposed amendment is available for public inspection, the comment period during which interested persons may submit written comments on the proposed program amendment, and information pertinent to the public hearing.

DATES: Written comments not received on or before 4:00 p.m. on November 5, 1986, will not necessarily be considered. A public hearing on the proposal will be held, if requested, on October 31, 1986, at the address listed below under **"ADDRESSES"**. Any person interested in making an oral or written presentation at the hearing should contact Mr. Jerry R. Ennis at the OSMRE Casper Field Office by 4:00 p.m. on October 21, 1986. If no one has contacted Mr. Ennis to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Ennis, a public meeting, rather than a hearing, may be held and the results of the meeting including in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand-delivered to Mr. Jerry R. Ennis, Director, Office of Surface Mining Reclamation and Enforcement, Casper Field Office, Federal Building, 100 East "B" Street, Room 2128, Casper, Wyoming 82601-1918.

The public hearing, if requested, will be held at the North Dakota Capitol Building, Bismarck, North Dakota 58505.

See **"SUPPLEMENTARY INFORMATION"** for address where copies of the North Dakota program amendment, the North Dakota program, and the administrative record on the North Dakota program are available. Each requester may receive, free of charge, one single copy of the proposed program amendment by contacting the OSMRE Casper Field Office listed above.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry R. Ennis, Director, Office of Surface Mining Reclamation and Enforcement, Casper Field Office, Federal Building, 100 East "B" Street, Room 2128, Casper, Wyoming 82601-1918; Telephone: (307) 261-5776 .

SUPPLEMENTARY INFORMATION: Copies of the North Dakota program amendment, the North Dakota program, and the administrative record on the North Dakota program are available for public review and copying at the OSMRE office and the office of the State regulatory authority listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Administrative Records, 1100 L Street NW., Room 5124, Washington, DC 20240

Office of Surface Mining Reclamation and Enforcement, 100 East "B" Street, Room 2128, Casper, Wyoming 82601-1918

North Dakota Public Service Commission, Reclamation Division, Capitol Building, Bismarck, North Dakota 58505.

Background

Information concerning the general background on the permanent program, general background on the State program approval process, general background on the North Dakota program submission, Secretary's findings, disposition of public comments, and Secretary's decision of conditional approval can be found in the December 15, 1980 **Federal Register** (45 FR 82214). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 934.11 and 934.15.

Proposed Amendment

On September 8, 1986, the State of North Dakota submitted to OSMRE an amendment to its approved permanent regulatory program. The amendment consists of revisions to the approved North Dakota regulations. The amended section of the regulations and brief description of the amended subject area is as follows: Section 69-05.2-12-20—revised regulations governing the minimum amount of public liability insurance coverage required.

OSMRE is seeking comment on whether North Dakota's proposed revisions to its regulations are in accordance with SMCRA and no less effective than the requirements of the revised Federal regulations and satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17.

The full text of the proposed program modifications submitted by North Dakota for OSMRE's consideration is available for public review at the addresses listed under **"SUPPLEMENTARY INFORMATION"**.

Additional Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule will not impose any new requirements; rather it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 934

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 30, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 86-22570 Filed 10-3-86; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 43

[DoD Directive 1344.7]

Personal Commercial Solicitation on DoD Installations

AGENCY: Department of Defense.

ACTION: Proposed change to final rule.

SUMMARY: This proposed change would apply the provisions reflected in Part 43 to Defense Agencies, since certain agencies are located on DoD installations and fall under the term "DoD Installation" as defined in Part 43. It would allow an exception to the prohibition on advertising addresses or telephone numbers of commercial sales activities for members of military families authorized to conduct such activities in family housing.

DATE: Written comments must be received by November 5, 1986.

ADDRESS: Assistant Secretary of Defense (Force Management and Personnel), ODASD (MM&PP), PA&S, Room 3C975, Pentagon, Washington, DC 20301-4000.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Schoenberger, (202) 697-9525.

SUPPLEMENTARY INFORMATION: In the Federal Register on March 5, 1986 (43 FR 7552) the Department of Defense published a final rule reissuing Part 43.

List of Subjects in 32 CFR Part 43

Consumer protection, Military personnel, Federal building and facilities.

PART 43—[AMENDED]

Accordingly, 32 CFR Part 43 is amended as follows:

1. The authority citation for Part 43 continues to read as follows:

Authority: 5 U.S.C. 301.

§ 43.2 [Amended]

2. Section 43.2(a) is amended by removing the word "and" before "the Unified Command" and adding before the parenthetical phase "and the Defense Agencies".

§ 43.6 [Amended]

3. Section 43.6(d)(14) is amended by adding after the word "installation" the following: ", except for authorized activities conducted by members of military families in family housing."

Linda M. Lawson,

Alternate OSD Federal Register Liaison Office, Department of Defense.

October 1, 1986.

[FR Doc. 86-22449 Filed 10-3-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 86-32]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Manatee County, Florida, the Coast Guard is considering changing the regulations governing the Anna Maria Bridge across the Gulf Intracoastal Waterway by permitting the number of openings to be limited during certain periods. This proposal is being made because vehicular traffic has increased. This action should accommodate the needs of vehicular traffic yet still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before November 20, 1986.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, 51 SW. 1st Avenue, Miami, Florida 33130-1681. The comments and other materials referenced in this notice will be available for inspection and copying at 51 SW. 1st Avenue, Room 816, Miami, Florida. Normal office hours are from 7:30 a.m. to 4 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments,

data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Proposed Regulations

The State Route 64 highway bridge across Anna Maria Sound (Gulf Intracoastal Waterway at mile 89.2) is one of several connections between Anna Maria Island and the Bradenton, Florida, metropolitan area. The double-leaf bascule drawbridge provides 24 feet of vertical clearance at the center in the closed position. The bridge opens on signal Monday through Friday, except on holidays. On Saturday, Sunday, and holidays, from 9 a.m. to 6 p.m., the bridge opens on the hour, quarter-hour, half-hour, and three-quarter hour to allow waiting vessels to pass. At all times, the bridge opens on signal for public vessels of the United States, tugs with tows, and vessels in distress. The proposed change would limit openings on weekdays during the busiest months of highway use to the 15-minute schedule now in effect on weekends and holidays. The intent is to reduce or eliminate "back-to-back" openings that contribute significantly to highway traffic delays.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 117.287 is proposed to be amended by revising paragraph (d)(2) to read as follows:

§ 117.287 Gulf Intracoastal Waterway, Caloosahatchee River to Perdido River.

* * * * *

(d) * * *

(2) The draw of the Anna Maria (S.R. 64) bridge, mile 89.2, shall open on signal except that from 9 a.m. to 6 p.m. on Saturdays, Sundays and federal holdiays the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour. From December 1 to May 31, Monday through Friday, from 9 a.m. to 6 p.m. the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour.

* * * * *

Dated: September 19, 1986.

M. J. O'Brien,

Captain, U.S. Coast Guard Commander, Seventh Coast Guard District Acting.

[FR Doc. 86-22608 Filed 10-3-86; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CC Docket No. 86-212]

Amendment of the Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; order granting extension of time for filing comments.

SUMMARY: In response to requests by the Bell Atlantic Companies, the Arizona Public Service Company, and the National Cable Television Association, Inc., the Commission's Common Carrier Bureau has granted an extension of time for filing reply comments on matters discussed in the Commission's Notice of Proposed Rulemaking, Amendment of Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles in CC Docket No. 86-212, published on June 16, 1986, 51 FR 21774.

DATE: Reply Comments are now due by October 27, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Bert Weintraub or Suzan Friedman (202) 632-4887.

In the Matter of amendment of rules and policies governing the attachment of cable television hardware to utility poles; Order.

Adopted September 24, 1986.

Released September 25, 1986.

By the Chief, Common Carrier Bureau.

1. Before the Bureau are three motions filed by the Bell Atlantic Telephone Companies ("Bell Atlantic"), Arizona Public Service Company ("APS"), and the National Cable Television Association ("NCTA"), seeking extensions of time to October 27, October 24, and October 17, 1986, respectively, to file reply comments in the above-captioned proceeding.[1]

2. Bell Atlantic, in support of its request, states that it has received comments from 27 parties totalling approximately 1,000 pages, and that many are technical in nature and require considerable analysis. It adds that additional time would provide the Commission with a full and adequate record in the proceeding. In support of its request, APS states that the extension is needed to afford it ample time to thoroughly review and analyze the comprehensive and voluminous comments filed by NCTA. APS also asserts that it has had difficulty in obtaining copies of other comments. Additionally, APS asserts that NCTA, in its comments, has raised a matter not addressed by the NPRM and, thus, ample review and reply time is required to reply to this new issue and adequately complete the record. NCTA, in support of its request, states that the Commission's Notice of Proposed Rulemaking ("NPRM") raises issues that are extremely complex, and that the utilities have made the task of preparing replies more difficult by raising new and extraneous issues not contemplated by the NPRM. Further, NCTA adds that an extension of time would permit a more complete record upon which the Commission can base its decision.

3. Georgia Power Company, Gulf Power Company, and Mississippi Power

[1] 51 FR 21774 (1986).

Company (collectively, the "Southern Utilities") have filed a response in support of APS' motion. The Southern Utilities also state that they have experienced delays in receiving the comments, and that more time is needed to properly analyze the voluminous comments filed by the cable television interests.

4. Good cause has been shown to grant an extension, and no evidence has been submitted that any interested parties will suffer harm from a delay. In the interest of obtaining as complete a record as possible without having to resort to additional extensions of time, we will grant Bell Atlantic's request, which will extend the time to file reply comments from September 26, 1986, to October 27, 1986. In so doing, APS' and NCTA's requests for a shorter extension are being included hereby.

5. Accordingly, it is ordered, pursuant to authority delegated in Section 0.291 of the Commission's Rules, 47 CFR 0.291, that the request for extension of time filed by the Bell Atlantic Telephone Companies is granted, including Arizona Public Service Company and the National Cable Television Association.

6. It is further ordered that all interested parties may file reply comments no later than October 27, 1986.

Federal Communications Commission.

Albert Halprin,

Chief, Common Carrier Bureau.

[FR Doc. 86-22563 Filed 10-3-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 1 and 43

[CC Docket 86-368, FCC 86-393]

Common Carrier Reporting Requirements; Elimination of FCC Form 903 and Form 905; Telegraph Reports

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to eliminate Report Form 903 and Report Form 905, the monthly reports filed by radiotelegraph, ocean-cable and wire-telegraph carriers which had operating revenues in excess of $250,000 for the preceding year. This proposal is part of the Commission's overall effort to eliminate unnecessary and burdensome reporting requirements.

DATES: Comments must be received on or before October 15, 1986 and replies by October 31, 1986.

ADDRESS: Federal Communications Commission, 1919 M Street NW Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alan Feldman, Common Carrier Bureau, Industry Analysis Division, (202) 632-0745.

SUPPLEMENTARY INFORMATION: This is a summary of the Commissions notice of proposed rulemaking, CC Docket 86-368, adopted September 16, 1986 and released September 30, 1986.

The full text of this Commission notice is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this Notice may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rulemaking

1. Sections 1.786 and 43.31 of the Commission's Rules, 47 CFR 1.786, 43.31, require Radiotelegraph, Ocean-Cable, and Wire-Telegraph carriers which had annual operating revenues in excess of $250,000 for the preceding year to file monthly reports of financial, operating and statistical information. In this Notice of Proposed Rulemaking (Notice) we propose to eliminate from these sections a reporting requirement that is unnecessary and burdensome. Specifically, we propose to eliminate the monthly FCC Forms 903 and 905. Form 903 is required from Radiotelegraph and Ocean-Cable Carriers, and Form 905 is required from Wire-Telegraph carriers. Five companies filed Form 903 for 1985. They were FTC Communications Inc., ITT World Communications Inc., RCA Global Communications Inc., TRT Telecommunications Corp., and Western Union International, Inc. Western Union Telegraph Company was the only company to file Form 905.

2. To further our goal of reducing unnecessary regulatory paperwork we propose to eliminate Forms 903 and 905. The information in the forms has only been used by this Commission on an infrequent and limited basis. Although we summarize the forms on a quarterly basis, and generate an industry total, the quarterly summary is also rarely used by this Commission.

3. Eliminating the Form 903 and 905 does not preclude us from directing the affected carriers to file detailed information should the need arise. We believe that most of our needs for data are adequately met with the annual reports filed by these carriers. When necessary, special data requests can be tailored to specific needs. Since there is no ongoing need for monthly data, special studies will eliminate the need for radiotelegraph, ocean-cable and wire-telegraph carriers to submit monthly reports. This will not only reduce the costs to the carriers, it will also reduce this Commission's costs.

4. We presently believe that the annual reporting requirement, as defined §§ 1.785 and 43.21 of the Commission's rules, 47 CFR § 1.785, and 43.21, should be continued for these carriers. The annual reports (Forms O and R) provide more detail than contained in the monthly reports and are necessary for us to monitor the effects of competition on the traditional international carriers. As we experience with streamlined regulation and as the new international market structure develops, we will be in a better provision to evaluate additional streamlining and forbearance options.

5. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to reduce information collection requirements on the public.

6. In compliance with the provisions of section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), we certify that the elimination of the reporting of radiotelegraph, ocean-cable, and wire telegraph carriers on monthly Form 903 and 905 will not have a significant economic impact and will ease the recordkeeping and reporting requirement of these carriers. The rationale for the proposed elimination is outlined in the above discussions.

Ordering Clauses

7. Accordingly, It Is Ordered, That pursuant to the provisions of sections 219 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 219 and 403 there is Hereby Instituted a notice of proposed rulemaking into the foregoing matter.

8. It Is Further Ordered, That interested persons may file comments on the specific proposals discussed in this Notice on or before October 15, 1986. Reply comments shall be filed on or before October 31, 1986. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, 47 CFR 1.419, an original and five (5) copies of all comments shall be furnished to the Commission. Copies of the documents will be available for public inspection in the Commission's Docket Reference Room, 1919 M Stret NW., Washington, DC.

List of Subjects in 47 CFR Parts 1 and 65

Communications common carriers, Reporting requirements, Radiotelegraph, Ocean-cable, Wire-telegraph.

William J. Tricarico,

Secretary.

[FR Doc. 22565 Filed 10-3-86; 8:45 am]

BILLING CODE 6712-01-M

Federal Highway Administration

49 CFR PART 391

[BMCS Docket No. MC-125; Notice No. 86-13]

Qualifications of Drivers—Driver Licenses

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of comment period.

SUMMARY: The FHWA issued an advance notice of proposed rulemaking (ANPRM) which was published in the **Federal Register** August 1 (51 FR 27567), with the comment period closing on September 2. Subsequently, the comment period was extended to October 2 (51 FR 31150). Further extension of the closing date has been requested in which the petitioner believe there are a number of critical issues raised that cannot be fully evaluated within the time currently provided. The closing date is therefore being extended to November 5, 1986.

DATE: Comments must be received on or before November 5, 1986.

ADDRESS: All comments should refer to the docket number which appears at the top of this document and must be submitted (preferably in triplicate) to Room 3404, Office of Motor Carrier Standards, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Office of Motor Carrier Standards, (202)366-2983; or Mr. Edward J. Mullaney, Office of the Chief Counsel, (202)366-0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA received a petition from the American Association of Motor Vehicle Administrators (AAMVA) requesting further extension of the comment period. The AAMVA stated that it discussed the items contained in the ANPRM at its Driver License Steering Committee planning meeting and stated that the group needs extra time to adequately respond. This request for extension has merit and therefore the comment period is being extended to November 5, 1986.

List of Subjects in 49 CFR Part 391

Highways and roads, Highway safety, Motor carriers, Motor vehicle safety, Driver qualifications.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety).

Issued on: October 2, 1986.

R. D. Morgan,

Executive Director, Highway Administration.

[FR Doc. 86-22639 Filed 10-5-86; 10:56 am]

BILLING CODE 4910-22-M

Notices

Federal Register
Vol. 51, No. 193
Monday, October 6, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Petitions for Rulemaking; Availability of Report; Public Meeting

AGENCY: Administrative Conference of the United States, Committee on Rulemaking.

ACTION: Notice of Public Meetings; Availabilty of Draft Report.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of two meetings of the Committee on Rulemaking of the Administrative Conference of the United States. The Committee on Rulemaking has scheduled these meetings to consider a draft report and recommendations prepared by Professor William V. Luneburg (University of Pittsburgh, School of Law) on agencies' handling of public petitions for rulemaking.

DATE: Tuesday, October 21, 1986, at 9:45 a.m.

LOCATION: Gelman Building, 2120 L Street, NW., Lower Level, Hearing Room No. 3, Washington, DC.

DATE: Thursday, October 30, 1986, at 9:45 a.m.

LOCATION: Law firm of Jones, Day, Reavis & Pogue, Metropolitan Square, 655 Fifteenth Street, NW., Suite 600 (use G Street entrance), Washington, DC.

PUBLIC PARTICIPATION: The committee meetings are open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meetings will be available on request.

FOR FURTHER INFORMATION CONTACT: Michael W. Bowers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, DC 20037. Telephone: (202) 254–7065. Single copies of Professor Luneburg's draft report may be obtained free of charge by calling or writing the Office of the Chairman.

Dated: October 2, 1986.

Richard K. Berg,

General Counsel.

[FR Doc. 86–22672 Filed 10–3–86; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; Amendment of an Existing System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Amendment of an existing system of records.

SUMMARY: The purpose of this notice is to add a new routine use to the system of records known as USDA/OP–1.

DATES: 5 U.S.C. 552(e)(11) requires that the public be provided a 30-day period in which to comment. Comments received on or before November 5, 1986 will be considered. Unless comments are received which would require a contrary determination, ths amendment shall be effective as proposed without further notice at the end of the comment period.

FOR FURTHER INFORMATION CONTACT: Carolyn Wright, Security, Employee and Labor Relations Staff, Office of Personnel, Department of Agriculture, Washington, DC 20250, (202) 447–3083.

SUPPLEMENTARY INFORMATION: The Spending reduction Act of 1984 established a tax refund offset program by which agencies could request that tax refunds of persons indebted to it be reduced by the amount of the debt with the amount offset being paid instead to the creditor agency. The Department of Agriculture is participating in this program.

Because prior collection efforts have failed, it has been determined that a listing of those former employees who continue to owe past-due legally enforceable debts to the Department of Agriculture will be referred to the Internal Revenue Service for offset of the debt against any tax refund due.

The following routine use is being added to the Office of Personnel's system of records known as USDA/OP–1 published at 49 FR 45071 et seq., December 10, 1984.

USDA/OP–1

System Name: Personnel and Payroll System for USDA Employees, USDA/OP.

* * * * *

Routine use of records maintained in the system, including categories of users and the purposes of such uses:

* * * * *

(23) the Internal Revenue Service to enable it to offset and satisfy past-due, illegally enforceable debts owed to USDA against Federal income tax refunds.

Dated: September 30, 1986.

Richard E. Lyng,

Secretary.

[FR Doc. 86–22532 Filed 10–3–86; 8:45 am]

BILLING CODE 3410–01–M

Foreign Agricultural Service

1986 White or Irish Potato Production Estimates

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of estimates with respect to 1986 white or Irish potato production.

SUMMARY: Headnote 2 of Subpart A of Part 8 Schedule 1 of the Tariff Schedules of the United States (TSUS) provides that, if for any calendar year the production in the United States of white or Irish potatoes, including seed potatoes, according to the estimate of the Department of Agriculture made as of September 1, is less than 21 billion pounds, an additional quantity of potatoes equal to the amount by which such estimated production is less than 21 billion pounds shall be added to the 45 million pounds provided for in TSUS item 137.25 for the 12-month period beginning September 15.

Notice

The estimate of the Department of Agriculture, made as of September 1, 1986 is that for the calendar year 1986 the production in the United States of

white or Irish potatoes, including seed potatoes, will exceed 21 billion pounds.

Issued at Washington, DC, this 16th day of September, 1986.

Leo V. Mayer,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 86-22603 Filed 10-3-86; 8:45 am]

BILLING CODE 3410-10-M

COMMISSION ON CIVIL RIGHTS

Appointment of Individuals to Serve as Members of the Performance Review Board—Senior Executive Service

October 1, 1986.

The Civil Service Reform Act of 1978, 5 U.S.C. 4314(c)(4) requires that notice of the appointments of individuals to serve as menbers of performance review boards be published in the **Federal Register**. Therefore, in compliance with this requirement, notice is hereby given that the individuals whose names and position titles appear below have been appointed to serve as members of the performance review board for the United States Commission on Civil Rights for the rating year beginning October 1, 1985 and ending September 30, 1986.

Gerald Hinch, Assistant Director
Office of Training and Development
Office of Personnel Management
Albert G. Maltz, Assistant Staff Director for Administration
U.S. Commission on Civil Rights
James Mann, Acting Deputy Staff Director
U.S. Commission on Civil Rights

J. Al Latham, Jr.,

Staff Director.

[FR Doc. 86-22544 Filed 10-3-86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 30-861]

Proposed Foreign-Trade Zone in Monroe County, NY; Amendment of Application

Correction

In FR Doc. 86-21972 beginning on page 34478 in the issue of Monday, September 29, 1986, make the following correction:

On page 34479, in the first column, in the second complete paragraph, third line, the first word should read "public".

BILLING CODE 1505-01-M

International Trade Administration

[C-333-001]

Cotton Sheeting and Sateen From Peru; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: In response to a request from the Government of Peru, the Department of Commerce has conducted an administrative review of the countervailing duty order on cotton sheeting and sateen from Peru. The review covers the period January 1, 1983 through December 31, 1983 and three programs.

As a result of the review, the Department has preliminarily determined the total bounty or grant for the period of review to be 15.04 percent *ad valorem*. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: October 6, 1986.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Lorenza Olivas, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786

SUPPLEMENTARY INFORMATION:

Background

On August 31, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 34542) the final results of its last administrative review of the countervailing duty order on cotton sheeting and sateen from Peru (48 FR 4501, February 1, 1983). We began this review under our old regulations. On September 19, 1985, after the promulgation of our new regulations, the Government of Peru requested in accordance with § 355.10 of the Commerce Regulations that we complete the administrative review of the order. We published the new initiation on November 27, 1985 (50 FR 48825). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Peruvian cotton sheeting and sateen consisting of: (1) Plain-woven cotton fabric sheeting, not fancy or figured and not napped, made of singles yarn, with an average yarn number between 3 and 26, imported in Textile and Apparel Category 313, currently classifiable under items 320.—19 and 320.—34 of the Tariff Schedules of the United States Annotated ("TSUSA"); and (2) 100% carded cotton sateen fabrics woven with a satin weave and not napped, imported in Textile and Apparel Category 317, and currently classificable under TSUSA items 320.—52 and 321.—93.

The review covers the period January 1, 1983 through December 31, 1983 and three programs: (1) CERTEX; (2) FENT; and (3) Article 16 of the Export Law.

Analysis of Programs

(1) CERTEX

Under the Certificates of Tax Rebate ("CERTEX") program, the Government of Peru issues tax certificates to exporters in amounts equal to a percentage of the f.o.b. invoice price of export shipments. Exporters can use the certificates to pay taxes owed to the Peruvian government. Four exporters used this program during the period of review.

We calculated the benefit under the program by dividing the total amount of CERTEX tax certificates issued on U.S. exports by total exports of cotton sheeting and sateen to the United States during the period of review. We preliminarily determine the benefit conferred by the program to be 11.61 percent *ad valorem*.

The Peruvian government discontinued this program, effective September 15, 1983, for shipments of this merchandise to the United States. We therefore preliminarily determine, for purposes of cash deposits of estimated countervailing duties, that there is no current benefit from this program.

(2) FENT

Under the Nontraditional Export Fund ("FENT") program, the Government of Peru makes short-term export financing available to exporters of goods not traditionally exported. There are three types of short-term financing: Soles loans, foreign currently loans and mixed currency loans. Exporters of cotton sheeting and sateen used only foreign currency (dollar) loans during the period of review. The loans are drawn from a fund established by the Banco Central de Reserva Del Peru ("BCRP") and passed through the Banco Industrial del Peru and a commercial bank. Because this program is available only to exporters, we preliminarily determine that it confers a bounty or grant on cotton sheeting and sateen.

Foreign currency loans are granted for a maximum period of 180 days at a concessional annual interest rate of 1 percent. The amount of the loan cannot exceed 90 percent of the export value of the shipment. In order to receive this FENT loan, the firm must borrow in foreign currency from an external commercial source an amount equal to 80 percent of the value of the FENT loan. The BCRP reports the interest rate on these exernal dollar loans to be the prime rate plus a spread of 1.15 percentage points, plus finance charges. The firm must deposit the full amount of this external loan, for the duration of the FENT loan, with the BCRP, where it earns an interest rate of the London Interbank Offer Rate ("LIBOR") plus 5 percentage points.

To calculate the benefit, we first determined the annual interest differential between the 1 percent interest on the FENT loan and the average commercial rate for dollar loans available in Peru during the period of review. We multipled the differential by the full amount of the FENT loan, adjusting for the duration of the loan. We then calculated the net cost to the firm of the required external dollar loans by subtracting the return on the BCRP deposits of those loans from the cost of the loans. For the period of review, the cost to each firm of the external dollar loans exceeded the return on the BCRP deposits. We subtracted the net cost of those loans from the benefit on the FENT loans. Since the FENT loans are allocated specifically to U.S. shipments, we divided the total benefit by the total exports of cotton sheeting and sateen to the United States. On this basis, we preliminarily find the benefit from this program to be 0.81 percent *ad valorem*.

The Peruvian government discontinued this program, effective September 13, 1983, for exports of cotton sheeting and sateen to the United States. We therefore preliminarily determine, for purposes of cash deposits of estimated countervailing duties, that there is no current benefit from this program.

(3) Article 16 of the Export Law

The aim of the Law for the Promotion of Exports of Nontraditional Goods ("the Export Law") is to improve the foreign trade structure by promoting nontraditional exports. Under Article 16 of the Export Law, exporters may defer payment of import duties on machinery used to manufacture merchandise for export if they meet specified export targets set in the Export Law. The deferral of duties is contingent upon meeting yearly export targets. If exporters acheive all targets within a maximum of five years, they are eligible for full exemption from payment of the duties. The exemption takes effect in the year that the export targets are reached. If the firm fails to meet the export targets, it must pay the duties with penalties.

During the period of review, three firms obtained import duty deferrals on exports to the United States and one of those three fulfilled the requirements for a partial exemption from payment of import duties. We consider these import duty deferrals to be equivalent to one-year interest-free loans because there is uncertainty from year to year whether the duties will be paid or exempted from payment. If exemption occurs, we expense the full amount of the exemption in the year of receipt.

We calculated the benefit from the deferrals, or "loans," outstanding during the period of review using a 1982 benchmark because we assume that the interest paid in 1983 was based on a loan rolled over in 1982.

We applied a 1982 commercial benchmark rate, which is the effective annual interest rate for short-term promissory notes. We allocated each company's benefit over its total exports during the period of review. For the firm that obtained the partial exemption, we allocated the full amount of the exemption plus the interest benefit (from the import duty deferral during the portion of the review period before the actual exemption occurred) over that firm's total exports. We then weight-averaged each company's benefit by its share of total exports of the merchandise to the United States. On this basis, we preliminarily determine the benefit from this program to be 2.62 percent *ad valorem*.

Because we have expensed the full amount of the import duty exemption for one firm in the review period, the potential benefit from this program for that firm is reduced. We therefore preliminarily determine, for purposes of cash deposits of estimated countervailing duties, the current benefit to be 1.86 percent *ad valorem*.

Preliminary Results of Review

As a result of the review, we preliminarily determine the total bounty or grant to be 15.04 percent *ad valorem* for the period of review. The Department intends to instruct the Customs Service to assess countervailing duties of 15.04 percent of the f.o.b. invoice price on any shipments of this merchandise exported on or after January 1, 1983 and exported on or before December 31, 1983.

Because of the changes described for FENT, CERTEX and Article 16 of the Export Law, the total estimated bounty or grant is 1.86 percent *ad valorem*. Therefore, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 1.86 percent of the invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday following. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (50 FR 32556, August 13, 1985).

Dated: October 1, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-22595 Filed 10-3-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-047]

Elemental Sulphur From Canada; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by three respondents, the Department of Commerce has conducted an administrative review of the antidumping finding on elemental sulphur from Canada. The review covers three of the forty known producers and/or exporters of this merchandise to the United States currently covered by the

finding and the period December 1, 1984 through November 30, 1985. The review indicates the existence of dumping margins for certain firms during the period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 3, 1986.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Linnea Bucher, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On September 18, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 37889) the final results of its last administrative review of the antidumping finding on elemental sulphur from Canada (38 FR 34655, December 17, 1973). We received requests for an administrative review from three respondents in accordance with § 353.53a(a) of the Commerce Regulations that we conduct the administrative review. We subsequently published a notice of initiation of the antidumping duty administrative review on January 21, 1986 (51 FR 2747).

Scope of the Review

Imports covered by the review are shipments of elemental sulphur from Canada, currently classifiable under item 415.4500 of the Tariff Schedules of the United States Annotated. The review covers three of the forty known producers and/or exporters of Canadian elemental sulphur to the United States currently covered by the finding, Cornwall Chemicals, Ltd., Canadian Reserve Oil & Gas, Ltd., and Texaco Canada, Inc., and the period December 1, 1984 through November 30, 1985.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act"). Purchase price was based on the ex-factory price to unrelated purchasers in the United States. No deductions were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis of comparison. Home market price was based on the ex-factory or delivered price to unrelated purchasers in the home market. We made adjustments, where applicable, for inland freight. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exists for the period December 1, 1984 through November 30, 1985:

Manufacturer/exporter	Margin (percent)
Cornwall Chemicals, Ltd.	[1] 3.84
Canadian Reserve Oil and Gas, Ltd.	[1] 15.24
Texaco Canada, Inc. (formerly Texaco Canada Resources, Ltd.)	0

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall instruct the Customs Service not to assess antidumping duties on all appropriate entries.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. For any shipments from the remaining 37 producers and/or exporters not covered by this review, the cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms (50 FR 37889, September 18, 1985).

For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after November 30, 1985 and who is unrelated to any reviewed firms, no cash deposit shall be required. These deposit requirements are effective for all shipments of Canadian elemental sulphur entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985).

Dated: September 29, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86–22474 Filed 10–3–86; 8:45 am]

BILLING CODE 3510–OS–M

Minority Business Development Agency

Financial Assistance Application Announcement; CA

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3 year period, subject to available funds. The cost of performance for the first 12 months is estimated at $380,118 for the project performance period of February 1, 1987 to January 31, 1988. The MBDC will operate in the San Jose Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $323,100 in Federal funds and a minimum of $57,018 in non-Federal Funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 09–10–87001–01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full

range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 221 Main Street, Room 1280, San Francisco, California 94105, October 23, 1986 at 10:00 A.M.

Proposals are to be mailed to the following address:

Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 221 Main Street, Room 1280, San Francisco, California 94105, 415/974–9597.

Closing date: The closing date for applications is November 17, 1986. Applications must be postmarked by midnight November 17, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development Catalog of Federal Domestic Assistance)

Xavier Mena,

Regional Director, San Francisco Regional Office.

September 30, 1986.

[FR Doc. 86–22539 Filed 10–3–86; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Approval of the Virginia Coastal Resources Management Program/ Final Enviornmental Impact Statement

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management.

ACTION: Notice of approval of program.

SUMMARY: Notice is hereby given that the Assistant Administrator for Ocean Services and Coastal Zone Management (on behalf of the Secretary of Commerce) on September 19, 1986 approved the Coastal Resources Management Program of Virginia pursuant to the authority contained in Section 306(a) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1455(a)).

Approval activates the responsibility of Federal agencies and persons applying for Federal licenses and financial assistance for activities affecting the Virginia coastal zone to be consistent with the Program pursuant to the Federal consistency provisions of the Coastal Zone Management Act as of the date of approval. Further informtaion on the responsibilities of affected Fedral agencies and applicants for Federal licenses and permits in this regard may be found in 15 CFR Part 930.

A copy of the findings made by Assistant Administrator in determining that this program meets the requirements of the Coastal Zone Management Act may be obtained upon request from the Office of Ocean and Coastal Resource Management. Mr. Joseph A. Uravitch, Regional Manager, South Atlantic and Gulf Regions, Office of Ocean and Coastal Resource Management, 1825 Connecticut Avenue, Washington, DC 20235, (202) 673–5138.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: September 26, 1986.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 86–22547 Filed 10–3–86; 8:45 am]

BILLING CODE 3510–08–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Limits for Certain Man-Made Fiber Apparel Products Produced or Manufactured in the Philippines

September 26, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 26, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

A CITA directive dated December 20, 1985 (50 FR 52830) established limits for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported during the agreement year which began on January 1, 1986 and extends through December 31, 1986. At the request of the Government of the Republic of the Philippines, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 24, 1982, as amended, between the Governments of the United States and the Republic of the Philippines, the 1986 limit for category 659–NT is being increased by the application of swing to 1,822,259 pounds. The limit for Category 659–T is being reduced to 4,043,063 dozen to account for the increase in Category 659–NT.

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the restraint limits previously established for the categories, as indicated.

A description of the cotton, wool and Man-Made fiber textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July

16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

September 26, 1986.

Committee For the Implementation of the Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 20, 1985 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

Effective on September 26, 1986, the directive of December 20, 1985 is hereby further amended to include the following adjusted restraint limits:[1]

Category	Adjusted twelve-month limit [1]
659-NT	1,822,259 pounds
659-T	4,043,063 dozen

The Committee for the Implementation of Textile Agreements had determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-22548 Filed 10-3-86; 8:45 am]

BILLING CODE 3510-DR-M

Waiver of Visa Requirement for Certain Wool Apparel Products Produced or Manufactured in the Republic of Korea

September 29, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 3, 1986. For further information contact Eve Anderson, International Trade Apparel, U.S. Department of Commerce (202) 377-4212.

Background

As a interim measure, pending resolution of a trade problem that has arisen concerning export visas issued by the Government of the Republic of Korea for certain wool apparel products in Category 459, the Committee for the Implementation of Textile Agreements (CITA) has decided to waive the correct visa requirement for merchandise visaed as Category 459-A or 459-F, properly classifiable as Category 459-O (all TSUSA numbers in the category except 702.7500 and 702.8000), which has been produced or manufactured in the Republic of Korea and exported before October 31, 1986. In the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs to implement this waiver procedure until December 31, 1986 for goods entered on or before that date.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

William H. Houston, III,

Chairman, Committee for the Implementation of Textiles Agreements.

September 29, 1986.

Committee For the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 1, 1982 as amended, between the Governments of the United States and the Republic of Korea, I request that, effective on October 3, 1986 you waive the correct visa requirement for merchandise visaed as Category 459-A or 459-F, properly classifiable as Category 459-O [1] which has been produced or manufactured in the Republic of Korea and exported before October 31, 1986. This waiver is applicable to merchandise entered into the United States for consumption or withdrawn from warehouse for consumption by December 31, 1986.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston, III,

Chairman, Committee for the Implementation of Textiles Agreements.

[FR Doc. 86-22550 Filed 10-3-86; 8:45 am]

BILLING CODE 3510-DR-M

Change in Officals of the Government of Pakistan Authorized to Issue Export Visas for Certain Cotton Textile Products from Pakistan

September 29, 1986.

The Government of Pakistan has notified the United States Government under the terms of the Bilateral Cotton Textile Agreement of March 9 and 11, 1982 that Mr. Muhammad Shahid Awan and Mr. S.M. Ismail are now authorized to issue export visas for cotton textile products exported to the United States in place of Mr. Rehmat-ur-Rehman and Mrs. Nighat Perveen, who will no longer sign these documents. The purpose of this notice is to advise the public of this change.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

September 30, 1986.

[FR Doc. 86-22551 Filed 10-3-86; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of Malaysia to Review Trade in Category 605 pt. (Sewing Thread)

September 29, 1986.

On August 29, 1986, the Government of the United States requested consultations with the Government of Malaysia with respect to Category 605 pt. (only TSUSA number 310.9500). This request was made on the basis of the agreement between the Governments of the United States and Malaysia relating to trade in cotton, wool, and man-made fiber textile products, effected by exchange of notes dated July 1, and July 11, 1985. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

[1] The agreement provides, in part, that: (1) Specific limits may be exceeded during the agreement year by designated percentages; (2) Specific limits may be adjusted for swing, carryover and carryforward; and (3) Administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[1] In Category 459, all TSUSA numbers in the category except 702.7500 and 702.8000.

The purpose of this notice is to advise the public that, pending exchange of notes on a mutually satisfactory solution concerning this category, the Government of the United States has decided to control imports during the ninety-day consultation period which began on August 29, 1986 and extends through November 26, 1986 at a level of 61,407 pounds. If no solution is agreed upon in consultations between the two governments, CITA, pursuant to the agreement, may establish a prorated specific limit of 20,189 pounds for Category 605 pt. for the entry and withdrawal from warehouse for consumption of textile products, produced or manufactured in Malaysia and exported during the period beginning on November 27, 1986 and extending through December 31, 1986.

In the event the limit established for the ninety-day period is exceeded, such excess amounts, if allowed to enter, may be charged to the level established for the prorated period.

A summary market statement for this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 605 pt. under the agreement production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Comerce, 14th and Constitution Ave., NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553 (a)(1) relating to matters which constitute "a foreign affairs function of the United States."

September 30, 1986.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

September 30, 1986.

Malaysia—Market Statement

Category 605—Thread, Man-Made Fiber

August 1986

Summary and Conclusions

U.S. imports of Category 605—Thread, man-made fiber, from Malaysia amounted to 247,565 pounds during the year ending June 1986, 52 times the 4,752 pounds imported a year earlier. During the first half of 1986, imports from Malaysia amounted to 224,673 pounds. This was equal to 47 times the amount imported during the first six months of 1985 and eight times the level imported during the calendar year 1985.

The sharp and substantial increase in imports of Category 605—Thread from Malaysia is disrupting the U.S. market for man-made fiber thread.

U.S. Production and Market Share

U.S. production of man-made fiber thread in 1985 dropped 14 percent below the 1984 level and is 8 percent below the 1983 level. The U.S. producers' share of the U.S. man-made fiber thread market declined from 89 percent in 1983 to 73 percent in 1985.

Import and Import Penetration

U.S. imports of man-made fiber thread from all sources increased 44 percent in 1985 to a record level of 4.7 million pounds. Imports for the first half of 1986 were up 32 percent over the comparable period in 1985. The ratio of imports to domestic production increased threefold from 12.8 percent in 1983 to 37.5 percent in 1985.

Import Values and Domestic Prices

Malaysia's Category 605—Thread imports enter under TSUSA No. 310.9500—polyester sewing thread. This thread enters at duty-paid landed values well below the U.S. producers price for comparable thread.

September 29, 1986.

Committee For the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agriculture Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement, effected by exchange of notes dated July 1 and July 11, 1985, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on October 3, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 605 pt. [1] produced or manufactured in Malaysia and exported during the ninety-day period which began on August 29, 1986 and extends through November 26, 1986, in excess of 61,407 pounds.[2]

Textile products in Category 605 pt. which have been exported to the United States prior to August 29, 1986 shall not be subject to this directive.

Textile products in Category 605 pt. which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of The United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-22552 Filed 10-3-86; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of the Socialist Federal Republic of Yugoslavia on Man-Made Fiber Sweaters in Category 645/646

September 29, 1986.

On August 29, 1986, the Government of the United States, under Article 3 of the Arrangement Regarding

[1] In Category 605, only TSUSA number 310.9500.

[2] The limit has not been adjusted to account for any imports exported after August 28, 1986.

International Trade in Textiles, done at Geneva on December 20, 1973, as further extended on July 31, 1986, requested the Government of the Socialist Federal Republic of Yugoslavia to enter into consultations concerning exports to the United States of man-made fiber sweaters in Category 645/646, produced or manufactured in Yugoslavia.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of the Socialist Federal Republic of Yugoslavia, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Category 645/646, produced or manufactured in Yugoslavia and exported to the United States during the twelve-month period which began on August 29, 1986 and extends through August 28, 1987 at a level of 77,199 dozen.

A summary market statement concerning this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Anyone wishing to comment or provide data or information regarding the treatment of Category 645/646 under Article 3 of the Multifiber Arrangement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC., and may be obtained upon written request.

Further comment may be invited regarding prticular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Yugoslavia—Market Statement
Category 645/646—Man-Made Fiber Sweaters

August 1986.

Summary and Conclusion

U.S. imports of Category 645/646 from Yugoslavia were 91,983 dozen during the year ending June 1986, approximately 50 times the 1,858 dozen imported a year earlier. During the first half of 1986, man-made fiber sweater imports from Yugoslavia were 43,477 dozen compared to 1,031 dozen imported during the same period of 1985.

The U.S. market for Category 645/646 has been disrupted by imports. The sharp and substantial increase of imports from Yugoslavia is contributing to this disruption.

U.S. Production and Market Share

U.S. production of man-made fiber sweaters declined 18 percent between 1983 and 1985 to 5,947 thousand dozen. The U.S. producers' share of this market declined from 40 percent in 1983 to 33 percent in 1985.

U.S. Imports and Import Penetration

U.S. imports of Category 645/646 grew from 10,775 thousand dozen in 1983 to 12,167 thousand dozen in 1985, a 13 percent increase. Year ending June 1986 imports of Category 645/646 reached 12,429 thousand dozen, 14 percent higher than the level imported during the year ending June 1985. Category 645/646 import are up 5 percent through the first half of 1986. The ratio of imports to domestic production increased from 149 percent in 1983 to 205 prcent in 1985.

Duty-Paid Value and U.S. Producers' Price

Approximately 81 percent of imports in Category 645/646 from Yugoslavia during the first six months of 1986 entered under TSUSA No. 384.8071—infants' man-made fiber knit sweaters, not ornamented and TSUSA No. 384.8073—Women's and girls' man-made fiber knit sweaters, not ornamented. These sweaters entered the U.S. at duty-paid landed values below U.S. producers' prices for comparable sweaters.

[FR Doc. 86-22553 Filed 10-3-86; 8:45 am]
BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of Macau Concerning Trade in Sweaters of Silk Blends and Vegetable Fibers (Other Than Cotton) in Category 845/846

September 30, 1986.

On August 28, 1986, the Government of the United States, under Article 3 of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, and as extended by Protocols on December 15, 1977, December 22, 1981, and July 31, 1986 requested consultations with the Government of Macau to enter into consultations concerning exports to the United States of sweaters of silk blends and vegetable fibers (other than cotton) in Category 845/846, produced or manufactured in Macau.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of Macau, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Category 845/846, produced or manufactured in Macau and exported to the United States during the twelve-month period which began on August 28, 1986 and extends through August 27, 1987 at a level of 183,778 dozen.

A summary market statement concerning this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on July 29, 1986 (51 FR 27068).

Anyone wishing to comment or provide data or information regarding the treatment of Category 845/846 under Article 3 of the Multifiber Arrangement or Paragraph 24 of the July 31, 1986 Protocol or on any other aspect thereof, or to comment on domestic production of directly competitive products or availability of texile products included in the categories, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S.

Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Macau—Market Statement

Category 845/846—Silk-Blend and Other Vegetable Fiber Sweaters

August 1986.

Summary and Conclusions

U.S. imports of Category 845/846 from Macau were 62,190 dozen during the first half of 1986 compared to 40,449 dozen imported during the first half of 1985, a 54 percent increase. Macau is the fifth largest supplier of Category 845/846 accounting for two percent of total imports during the year ending June 1986.

Imports of silk-blend sweaters and sweaters of vegetable fibers other than cotton have increased dramatically in recent years. Most silk-blend sweater imports are silk/wool or silk/rayon blends; most vegetable fiber sweater imports are ramie/cotton blends although ramie/rayon, ramie/acrylic, ramie/cotton/rayon, ramie/acrylic/cotton and linen/cotton blends are also being imported.

Imports of silk-blend and other vegetable fiber sweaters compete directly with domestically produced cotton, wool and man-made fiber sweaters. The U.S. market for cotton, wool, and man-made fiber sweaters, Category 345/445/446/645/646, has been disrupted by imports. The sharp and substantial increase of Category 845/846 imports from Macau is cntributing to the disruption of this market.

Import Penetration and Market Share

The ratio of imports to production in Category 345/445/446/645/646, cotton, wool and man-made fiber sweaters, increased to 154 percent in 1985. The share of this market held by domestic manufacturers dropped to 39 percent in 1985. When 1985 imports of Category 845/846 are included, the import to production ratio jumps to 236 percent and the domestic manufacturers' share of this market falls to 320 percent.

U.S. imports of Category 845/846 were 9,433 thousand dozen in 1985. They increased dramatically in 1986, reaching 6,217 thousand dozen in the first half, 83 percent higher than the January-June 1985 level.

Duty-Paid Value and U.S. Producer Price

Approximately 82 percent of the imports of Category 845/846 from Macau during the first half of 1986 entered under TSUSA No. 384.5315—women's, girls', and infants' vegetable fiber knit sweaters, not oramented. These sweaters entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable sweaters.

[FR Doc. 86-22555 filed 10-3-86; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Textile Consultations With the Government of the People's Republic of China to Review Trade in Category 845/846

September 30, 1986.

On August 29, 1986, the Governent of the United States, in accordance with Article 3 of the Arrangement Regarding International Trade in Textiles, requested consultations with the Government of the People's Republic of China with respect to sweaters of silk blends and vegetable fibers, other than cotton, produced or manufactured in China.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Category 845/846, produced or manufactured in China and exported to the United States during the twelve-month period which began on August 29, 1986 and entends through August 28, 1987 at a level of 991,254 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on July 29, 1986 (51 FR 27068).

A summary market staement concerning this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of this category, or to comment on demestic production or availability of textile products included in the categories, is invited to submit such comments or information in ten copies to Mr. William H. Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washigton, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information recieved from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

China—Market Statement

Category 845/846—Silk-Blend and Other Vegetable Fiber Sweaters

August 1986.

Summary and Conclusions

U.S. imports of Category 845/846 from China were 511,631 dozen during the first half of 1986 compared to 287,132 dozen imported during the first half of 1985, a 78 percent increase. China is the third largest supplier of Category 845/846 accounting for eight percent of total imports during the year ending June 1986.

Imports of silk-blend sweaters and sweaters of vegetable fibers other than cotton have increased dramatically in recent years. Most silk-blend sweater imports are silk/wool or silk/rayon blends; most vegetable fiber sweater imports are ramie/cotton blends although ramie/rayon, ramie/acrylic, ramie/cotton/rayon, ramie/acrylic/cotton and linen/cotton blends are also being imported.

Imports of silk-blend and other vegatable fiber sweaters compete with domestically produced cotton, wool, and man-made fiber sweaters. The U.S. market for cotton, wool, and man-made fiber sweaters, Category 345/445/446/645/646, has been disrupted by imports. The sharp and substantial increase of Category 845/846 imports from China is contributing to the disruption of this market.

Import Penetration and Market Share

The ratio of imports to production in Category 345/445/446/645/646, cotton, wool and man-made fiber sweaters, increased to 154 percent in 1985. The share of this market held by domestic manufacturers dropped to 39 percent in 1985. When 1985 imports of

Category 845/846 are included, the import to production ratio jumps to 236 percent and the domestic manufacturers share of this market falls to 30 percent.

U.S. imports of Category 845/846 were 9,433 thousand dozen in 1985. They increased dramatically in 1986, reaching 6,217 thousand dozen in the first half, 83 percent higher than the January-June 1985 level.

Duty–Paid Value and U.S. Producer Price

Approximately 85 percent of the imports of Category 845/846 from China during the first half of 1986 entered under TSUSA No. 384.5315—women's, girls', and infants' vegetable fiber knit sweaters, not ornamented. These sweaters entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable sweaters.

[FR Doc. 86–22554 Filed 10–3–86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Defense Language Institute (DLI) Board of Visitors

Under the provisions of Pub. L. 92–463, "Federal Advisory Committee Act," notice is hereby given that the Defense Language Institute (DLI) Board of Visitors has been found to be in the public interest in connection with the performance of duties imposed on the Department by law.

The nature and purpose of the DLI Board of Visitors is to povide the Commander, DLI, with advice on matters related to the Institute mission, policies, staff and faculty, students, curricula, educational philosophy and objectives, program effectiveness, instructional methods, research, administration, learning resources, physical resources, and financial resources

Dated: October 1, 1986.

Particia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86–22612 Filed 10–3–86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy (Marine Corps)

Privacy Act of 1974; New System of Records

AGENCY: Department of the Navy (U.S. Marine Corps), DOD.

ACTION: Notice of a new system of records subject to the Privacy Act.

SUMMARY: The U.S. Marine Corps is adding a new system of records to its inventory of systems of records subject to the Privacy Act of 1974.

DATE: The proposed action will be effective without further notice November 5, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. B.L. Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, DC 20380–0001, telephone: (202) 694–1452.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps systems notice for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93–579 were published in the **Federal Register** as follows:

FR Doc. 85–10237 (50 FR 22674) May 29, 1985 A new system report, as required by 5 U.S.C. 552a(o) of the Privacy Act was submitted on Spetember 2, 1986, pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 15, 1985.

Patricia H. Means,

OSD Federal Register Liaison Office, Department of Defense

October 1, 1986.

MRS00002

SYSTEM NAME:

Marine Corps Reserve Support Center (MCRSC) Managment System.

SYSTEM LOCATION:

Primary System—The Director, Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, Kansas 66211–1408.

Decentrailzed System—At Marine Corps mobilization and prior service recruiting stations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Marine Corps Reservists in the Individual Ready Reserve, Standby Reserve, Fleet Marine Corps Reserves, Individual Mobilization Augmentees, Selected Marine Corps Reserves, Full-Time Support (FTS) Marine Reserves, active duty Marines attached to the MCRS, and civilian employees of MCRSC.

CATEGORIES OF RECORDS IN SYSTEM:

Personnel, financial, and manpower data records. Training history for financial obligations and expenditures for reservists and reservists' qualifications, and program management records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code 301; Title 10, U.S. Code 5031;

Title 10, U.S. Code 275; Title 10, U.S. Code 652.

PURPOSE(S):

To provide record of all personnel, financial and manpower data on all Marine Corps military and civilian employees attached to MCRSC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Blanket Routine Uses that appear at the beginning of the Marine Corps compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF A RECORDS IN THE SYSTEM:

STORAGE:

Direct access storage device, magnetic tape, paper files, microfiche and other documents.

RETRIEVABILITY:

Social Security Number, name, grade, and unit.

SAFEGUARDS:

Restricted access to building and all areas where data maintained. Records are maintained in areas accessible only to those personnel that are authorized and have been properly screened, cleared, and trained. The system contains security features designed to restrict unauthorized access.

RETENTION AND DISPOSAL:

There are two types of files, permanent and working. After the Marine Reservist retires or is deceased, microfiche/paper records are sent to Headquarters Marine Corps for a period of six months. Thereafter, records are sent to the National Personnel Records Center, St. Louis, Missouri, idenfinitely. Computer records are maintained for a minimum of three years in the National Archives. After three years, the tapes are erased. Working files are disposed of when obsolete.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, Kansas 66211–1408.

NOTIFICATION PROCEDURE:

Information may be obtained from system manager. Requesters should provide their full name. Visitors should provide proper verification of identity. On written requests, signature of the requesting individual is required.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appeaing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual, Marine Corps recruiting districts, depots, bases, and other duty stations, Headquarters Marine Corps, Veterans Administration, Civilian Personnel Records, and changes caused by law are the principal sources of the information contained in the MCRSC Management System.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86-22610 Filed 10-3-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before November 5, 1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waiver the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Administrator, Information Technology Services, publishes this notice containing proposed informaton collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: October 1, 1986.

Carlos U. Rice,

Administrator Information Technology Services.

Office of Postsecondary Education

Type of Review: New
Title: Guarantee Agency Request for Supplemental Pre-Claims Assistance Costs
Agency Form Number: E40-24P
Affected Public: State or local governments; Non-profit institutions
Reporting Burden:
Responses: 3,016
Burden Hours: 452
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This form is used to reimburse the Guarantee Agencies for certain costs related to servicing delinquent loans under the Guaranteed Student Loan Program.

Office of Postsecondary

Type of Review: Extension
Title: Performance Report Under the Law School Clinical Experience Program
Agency Form Number: ED 595A
Affected Public: Non-profit Institutions
Reporting Burden:
Responses: 100
Burden Hours: 300
Recordkeeping Burden:
Recordkeepers: 100
Burden Hours: 300

Abstract: The informaton collected in this performance report will be utilized to assess the accomplishment of project goals and objectives, and to aid in effective program management under the Law School Clinical Experience Program.

Office of Postsecondary Education

Type of Review: Revision
Title: Application form for Cooperative Education
Agency Form Number: ED 1193
Frequency: NA
Affected Public: Non-profit institutions
Reporting Burden:
Responses: 357
Burden Hours: 3376
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This application is needed by eligible applicants to apply for grant funds authorized under Title VIII of the Higher Education Act, as amended. Application information is used to evaluate proposals and obligate grant funds.

Office of Educational Research and Improvement

Type of Review: Extension
Title: Library Services and Construction Act Final Financial Status, Performance and Completion Reports for State Administered Programs
Agency Form Number: ED 921-1, 912-2, 915-1
Affected Public: State or local governments
Reporting Burden:
Responses: 54
Burden Hours: 2160
Recordkeeping Burden:
Recordkeepers: 54
Burden Hours: 54
Abstract: The Financial Status, Performance and Completion Reports are needed to obtain information relating to expenditures of funds, project performance, and completion of projects from State library administrative agencies under the Library Services and Construction Act (LSCA) Title I, II, and III, as amended.

Office of Educational Research and Improvement

Type of Review: Extension
Title: Common Core of Data Survey System 1986-87
Agency Form Number: 2442, 2443, 2443-1, 2446, 2447
Frequency: Annually
Affected Public: State or local governments
Reporting Burden:
Responses: 57
Burden Hours: 5130
Recordkeeping Burden:
Recordkeepers: 0

Burden Hours: 0

Abstract: These surveys provide information about student enrollment, graduates, teachers, and related finances and are used in the allocation of Federal funds under Chapter 1, Education Consolidation and Improvement Act. Data are also provided to the general public as requested.

Office of Vocational and Adult Education

Type of Review: Extension
Title: Financial Status Report and Annual Performance Report for the Adult Education State-Administered Program
Agency Form Number: ED 365, 365–1
Affected Public: State or local governments
Reporting Burden:
Responses: 55
Burden Hours: 220
Recordkeeping Burden:
Recordkeepers: 55
Burden Hours: 4,400

Abstract: State educational agencies receiving grants under the Adult Education State-Administered Program submit Annual Financial Status and Performance Reports as prescribed by the Adult Education Act, as amended, and by OMB Circular No. A–102. Program officials use the data collected in accounting for the expenditure of funds and for monitoring program activities required by the approved State plan.

Office of Elementary and Secondary Education

Type of Review: Extension
Title: Nominations for the National Advisory Council on Indian Education
Agency Form Number: A10–10P
Affected Public: Individuals or households
Reporting Burden:
Responses: 80
Burden Hours: 80
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This form is used by the Department of Education to request names and information about individuals who wish to be nominated to serve on the National Advisory Committee on Indian Education.

[FR Doc. 86–22537 Filed 10–3–86; 8:45 am]

BILLING CODE 4000–01–M

Inviting Applications for New Awards Under the Leadership in Educational Administration Development (LEAD) Program for Fiscal Year 1987 (CFDA No. 84.178)

Purpose: Provides grants to eligible parties to establish and operate a technical assistance center in each of the 50 states to promote leadership skills for school administrators.

Deadline for transmittal of applications: December 5, 1986.

Deadline for intergovernmental review comments: January 4, 1987.

Applications available: October 8, 1986.

Available funds: $7,175,547 (fiscal year 1986 appropriation).

Estimated average size of awards: $143,500.

Estimated number of awards: 50.

Project period: 36 months.

Applicable regulations: (a) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79. (b) Proposed regulations governing the Leadership in Educational Administration Development Program were published on September 18, 1986 (50 FR 33218). If any substantive changes are made in the final regulations for this program, applicants will be given an opportunity to revise or resubmit their applications.

Invitational priorities: In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(1), the Secretary especially urges the submission of fiscal year 1987 applications that propose projects with the purpose of upgrading the skills of school administrators in one or more of the following invitational priority areas:

(a) Enhancing the schoolwide learning environment by assessing the school climate, setting clear goals for improvement, and devising strategies for completing manageable projects with measurable objectives.

(b) Evaluating the school curriculum in order to assess its effectiveness in meeting academic goals.

(c) Analyzing instruction and evaluating teacher performance to improve the quality of teaching through classroom observation and supervision.

(d) Appraising and diagnosing student achievement as well as overall school performance as measured by student achievement and other pertinent indicators.

(e) Identifying, understanding, analyzing, and applying the findings of research relevant to educational administration, instructional leadership, and school improvement.

(f) Organizing and managing school resources through such processes as effective communication, problem-solving, time-management, and budgeting.

(g) Establishing and improving school discipline and security policies that effectively respond to and prevent disorder and crime.

Applications submitted under this notice that meet an invitational priority area will not be given preference over other applications that do not meet any of the priority areas.

Information conference: An information conference for prospective applicants will be held on October 28, 1986, from 1:00 p.m. to 4:00 p.m. in Room 1134 (Horace Mann Learning Center Auditorium), 400 Maryland Avenue, SW. (FOB–6), Washington, DC *Potential applicants who are unable to attend the Information Conference are invited to contact Hunter Moorman for a written report of the conference.*

For applications or information contact: Hunter Moorman, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 500–K, Capital Place, Washington, DC 20208. Telephone: (202) 357–6116.

Program authority: 20 U.S.C. 4206

Dated: October 1, 1986.

Ronald P. Preston,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 86–22538 Filed 10–3–86; 8:45 am]

BILLING CODE 4000–01–M

National Graduate Fellows Program Fellowship Board; Meeting

AGENCY: National Graduate Fellows Program Fellowship Board, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth proposed agenda of a forthcoming meeting of the National Graduate Fellows Program Fellowship Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463, section 10(a)(2)).

DATE: October 16, 1986 at 8:30 a.m. through October 18, 1986 at 12:00 noon.

ADDRESS: Loew's L'Enfant Plaza Hotel, 480 L'Enfant Plaza SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Louise R. White, Executive Director, National Graduate Fellows Program Fellowship Board, Office of Post-secondary Education, 7th and D Streets

SW., Washington, DC 20202 (202) 245–9758.

SUPPLEMENTARY INFORMATION: The National Graduate Fellows Program Fellowship Board is established under section 931 of the Higher Education Act of 1980, Title IX, Part C (20 U.S.C. 1134h-k). The Presidentially-appointed National Graduate Fellows Program Fellowship Board establishes program policies, oversees program operations, and annually selects fields of study in which fellowships are to be awarded. The Fellowship Board determines the number of fellowships to be awarded in each designated field, and appoints panels to select fellows on the basis of demonstrated achievement and exceptional promise.

The meeting of the Fellowship Board will be open to the public. The agenda will include the determination of the applicant screening and review process and logistics, the appointment of panelists for applicant review and selection, and the program implications of the legislative changes contained in the reauthorization of the Higher Education Act.

Records shall be kept of all Board proceedings and shall be available for public inspection at the National Graduate Fellows Program, 7th and D Streets SW., Room 3082, Washington, DC 20202 from the hours of 8:00 a.m. to 4:30 p.m. weekdays, except Federal holidays.

C. Ronald Kimberling,

Assistant Secretary for Post Secondary Education.

[FR Doc. 86–22557 Filed 10–3–86; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Proposed Remedial Order to Mt. Airy Refining Co.

AGENCY: U.S. Department of Energy, Economic Regulatory Administration.

ACTION: Notice of proposed remedial order to Mt. Airy Refining Company.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Mt. Airy Refining Company, Lamar Lund, President, 13715 Chelwood Place, Houston, Texas 77069; William P. Boswell, 8805 Camargo Club Drive, Cincinnati, Ohio 45243; W. Luke Boswell, 4790 Burley Hills Drive, Cincinnati, Ohio 45243; Lindsay B. McLean, 7407 Star Key Road, Pleasant Plain, Ohio 45162; David P. Boswell, Route 5, Box VV, Priest River, Idaho 83856; P. Wilson Boswell, II, Route 1, P.O. Box 405A, Priest River, Idaho 83856; and Ellen W. Boswell, 2531 Waterside Drive, Washington, DC 20008. This Proposed Remedial Order alleges violations in the amount of $1,833,305.34 plus interest, resulting from Mt. Airy's improper reporting of its crude oil receipts on its Refiners Monthly Reports during the time period June 1977 through November 1977. The effect of the alleged violations is nationwide.

A copy of the Proposed Remedial Order may be obtained from: Office of Freedom of Information Reading Room, United States Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue SW., Washington, DC 20585.

Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, United States Department of Energy, Forrestal Building, Room IE–234, 1000 Independence Avenue SW., Washington, DC 20585, in accordance wth 10 CFR 205.193. The Notice shall be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order and shall state the person's intention to file a Statement of Objections.

Pursuant to 10 CFR 205.193(c), a person who files a Notice of Objection shall on the same day serve a copy of the Notice upon:

Sandra K. Webb, Director, Economic Regulatory Administration, U.S. Department of Energy, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002

and upon:

Marshall A. Staunton, Acting Solicitor, Economic Regulatory Administratin, U.S. Department of Energy, Room 3H–017, RG–40, 1000 Independence Avenue SW., Washington, DC 20585

Issued in Washington, DC, on the 24th day of September 1986.

Marshall A. Staunton,

Acting Solicitor, Economic Regulatory Administration.

[FR Doc. 86–22541 Filed 10–3–86; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RM85–1–000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Kaiser-Francis Oil Co. and Essex Exploration Co.; Order Granting, and Dismissing in Part, Requests for Waivers

Issued: September 29, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Kaiser-Francis Oil Company and Essex Exploration Company filed requests for waivers of the transitional provisions of Order No. 436 [1] as they apply to transportation transactions performed under section 311 of the Natural Gas Policy Act of 1978 (NGPA) and former § 157.209(a) of the Commission's Regulations. We will grant in part, and dismiss in part, the requests.

On September 19, 1984 and January 15, 1985, respectively, ANR Pipeline Company commenced transporting gas for Cincinnati Gas and Electric Company and Southeastern Michigan Gas Company under section 311 of the NGPA. On March 15, 1984, ANR Pipeline commenced transporting gas for Sohio Chemical Company under former § 157.209(a) of the Commission's Regulations.

Kaiser-Francis Oil Company

On April 15, 1985, Kaiser, a producer, entered into a written agreement to sell gas from its Sumpter well in Roger Mills County, Oklahoma, to ANR Gathering Company. The gas from the Sumpter well was to be transported by ANR Pipeline under the transportation agreements with Cincinnati Gas, Southeastern Michigan, and Sohio. Kaiser states that:

> Prior to October 9, 1985, it was ANR Pipeline's usual practice to accept gas from new points of receipt on the basis of oral arrangements. After commencement of flow from the new point of receipt, the transportation agreements would have been amended to reflect the addition of the point of receipt.

Prior to October 9, 1985, ANR Pipeline installed a receipt point to receive gas from the Sumpter well into its system. Kaiser has spent approximately $27,700 to construct its gathering system and

[1] 33 FERC ¶ 61,007 (1985); FERC Statutes and Regulations ¶ 30,665 (1985).

has agreed to reimburse ANR Pipeline for its receipt point. Construction on the gathering facilities was completed in late October 1985. ANR Pipeline has declined to transport gas from the Sumpter well due to the issuance of Order No. 436. The Sumpter well receipt point was not added to the written transportation agreement.

Essex Exploration Company

On March 16, 1985, Essex, a producer, entered into an agreement to sell gas from its Piersall well in Beaver County, Oklahoma, to ANR Gathering Company. The gas from the Piersall well was to be transported by ANR Pipeline under the transportation agreements with Cincinnati Gas, Southeastern Michigan, and Sohio.

In order to connect the Piersall well to ANR Pipeline's system, Essex constructed a gathering line at an estimated cost of $21,500. The gathering line was "readied for service" on September 25.

Essex states that a transportation contract covering gas from the Piersall well was not signed until October 16, 1985, because "[i]n accordance with ANR Pipeline's usual practice . . . ANR Pipeline withheld writen amendment of the transportation contracts until the actual commencement of deliveries." Transportation commenced on October 16 and continued until December 14 under the initial transition period for NGPA section 311 transportation provided in Order No. 436.

Discussion

In *CLARCO Gas Company, Inc. II*, 35 FERC ¶ 61,339 (1986), we held that waiver of the transitional provisions of Order No. 436 will be granted where evidence exists to show (1) an agreement prior to October 9, 1985, between two or more parties that commits the parties to an element of the transaction, (2) the construction of significant facilities or the expenditure of substantial funds prior to October 9, 1985 in reliance on that agreement, and (3) if the agreement relied upon was oral, execution of the agreement in writing prior to October 9, 1985. In addition, we stated that we will require a showing that the transaction for which waiver is sought is of a type that qualifies for transitional treatment.

We conclude that of Kaiser and Essex meet the test established in *CLARCO II* insofar as ANR Pipeline's transportation for Sohio is concerned. In the case of Kaiser, there was a written agreement between Kaiser and ANR Gathering for the sale of gas prior to October 9, 1985. Further, Kaiser constructed facilities before October 9 in reliance on that agreement. In the case of Essex, there was a written sales contract between Essex and ANR Gathering prior to October 9, 1985. Essex also constructed facilities prior to October 9 in reliance on that agreement. Accordingly, the portion of the waiver requests dealing with ANR Pipeline's transportation for Sohio under § 284.223(g)(1) can continue for its full term and the portion of the waiver requests dealing with ANR Pipeline's transportation for Southeastern Michigan under section 311 can continue for its full term, *i.e.*, until January 14, 1987.

We note that we granted ANR Pipeline a waiver of § 284.10(a)(1) of the Commission's Regulations in *United Gas Pipe Line Company, et al.*, 35 FERC ¶ 61,424 (1986). The waiver allows an interstate pipeline to continue an existing section 311 transaction, or begin a new section 311 transaction, as long as the pipeline transports in a manner consistent with the other provisions of Order No. 436. ANR Pipeline's waiver expires on January 1, 1987. Accordingly, the portion of the requests for waivers dealing with ANR Pipeline's section 311 transportation for Cincinnati Gas (whose contract expired on September 18, 1986) is dismissed as moot because ANR Pipeline can perform the transactions under the waiver granted to it in *United* until January 1, 1987.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-22573 Filed 10-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Tejas Power Corp. and TXO Production Corp.; Order Denying Requests for Waivers

Issued: September 29, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

In *CLARCO Gas Company, Inc.*, 35 FERC ¶ 61,339 (1986), we held that waiver of the transitional provisions of Order No. 436 [1] will be granted where evidence exists to show:

(1) An agreement (either oral or written) entered into prior to October 9, 1985, between two or more parties (e.g., a transporter and a shipper, or a buyer and a seller) that commits the parties to an element of the transaction (*e.g.*, the transportation of the gas, the sale of the gas to be transported, or storage of the gas before or after transportation), (2) the construction of significant facilities or the expenditure of substantial funds prior to October 9, 1985 in reliance on that agreement, and (3) if the agreement relied upon was oral, execution of the agreement in writing prior to October 9, 1985.

In addition, we stated that the transaction must be of a "type that qualifies for transitional treatment, *i.e.*, that the gas is destined for the system supply of an interstate or intrastate pipeline . . . or local distribution company, or is for a high priority end-user."

With the *CLARCO* standard in mind, we will examine the requests for waivers filed by Tejas Power Corporation and TXO Production Corp. We will deny the requests.

Tejas Power Corporation

On August 20, 1985, Tejas, a gatherer, entered into an agreement to purchase gas from two producers in Harrison County, Texas. Prior to the August 20 agreement, Tejas had entered into negotiations with Mississippi River Transmission Corporation (MRT) and with Texas Eastern Transmission Corporation contemplation that MRT would purchase the gas and Texas Eastern would transport the gas.

Tejas acquired a right-of-way and constructed facilities in order to connect the producers' wells to Texas Eastern's system. Construction of the facilities was completed on October 31, 1985, at an estimated cost of $140,000.

MRT and Texas Eastern executed a transportation agreement on October 29, 1985, whereby Texas Eastern agreed to transport the gas under former § 284.221 of the Commission's Regulations, but Texas Eastern declined to transport the gas due to its concern with the open access provisions of Order No. 436.[2]

Tejas has failed to demonstrate that its agreement to purchase gas from the two producers was executed in writing prior to October 9, 1985. In addition, the transportation agreement was not executed until after October 9, 1985. Accordingly, we will deny Tejas's request.

TXO Production Corp.

On June 7, 1985, TXO, a producer, entered into an agreement to sell gas to Tenngasco Exchange Corporation. On

[1] 33 FERC ¶ 61,007 (1985). FERC Statutes and Regulations ¶ 30,665 (1985).

[2] Subsequently, on October 30, 1985, TPC Pipeline, Inc., an intrastate pipeline and subsidiary of Tejas, entered into a transportation agreement with Texas Eastern under section 311 of the NGPA. Under the agreement, Texas Eastern agreed to transport gas from the same receipt point to the same delivery point as was comtemplated in the October 29 agreement between Texas Eastern and MRT. Gas commenced flowing on November 23, pursuant to the initial 45-day transition period for NGPA section 311 transportation provided in Order No. 436.

August 7, 1985, TXO commenced the construction of gathering facilities in order to connect its well in Monroe County, Mississippi, to the facilities of Tennessee Gas Pipeline Company, a Division of Tenneco Inc., in order to deliver the gas to Tenngasco. Construction was completed on October 28 at an approximate cost of $465,000.

On May 6, 1985, Tenngasco requested approval from Tennessee to amend an existing NGPA section 311 transportation agreement to include the new receipt point for TXO's gas. TXO states that "Tennessee advised Tenngasco that it was agreeable to adding the receipt point, [but] such approval was contingent upon Tenngasco['s] agreeing to reimburse Tennessee for any costs incurred in the installation of facilities necessary to receive gas from TXO." Tenngasco agreed to reimburse Tennessee on October 1. A written transportation contract was executed after October 9, 1985.

Even though the facilities were completed by October 28, Tennessee has not transported any gas due to its reluctance to become a non-discriminatory access transporter under Order No. 436.

We will deny TXO's request for waiver because TXO has been unable to demonstrate that Tennessee's transportation is a type that qualifies for transitional treatment under the standard announced in *CLARCO*.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-22572 Filed 10-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA86-29-000]

Dale Gas Joint Venture 1979-A; Petition for Adjustment

October 1, 1986.

Take notice that on July 25, 1986, Dale Gas Joint Venture 1979-A (Dale) filed with the Federal Energy Regulatory Commission a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) requesting relief from the Btu refund obligations of Order Nos. 399, 399-A, and 399-B. Dale requests the Commission to waive its obligation to make certain Order No. 399 refunds attributable to royalty payments previously made by Dale to certain royalty owners. Dale states that the amounts owed by certain royalty owners and for which it is responsible under Order Nos. 399, *et al.* are uncollectible.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions in Rule 214. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-22589 Filed 10-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA86-26-000]

Edwin L. Cox; Petition for Adjustment

October 1, 1986.

Take notice that on July 22, 1986, Edwin L. Cox (Cox) filed with the Federal Energy Regulatory Commission a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) requesting relief from the Btu refund obligation of Order Nos. 399, 399-A, and 399-B. Cox requests the Commission to waive its obligation to make certain Order No. 399 refunds attributable to royalty payments previously made by Cox to the State of Louisiana. Cox states that the amounts owed by Louisiana and for which it is responsible under Order Nos. 399, *et al.* are uncollectible.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions in Rule 214. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-22590 Filed 10-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA86-28-000]

I&S Oil and Gas Co.; Petition for Adjustment

Issued: October 1, 1986.

Take notice that on August 4, 1986, I&S Oil and Gas Company (I&S) filed with the Federal Energy Regulatory Commission a petition for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 and Part 385 (Subpart K) of the Commission's regulations. I&S seeks waiver of its obligations under Commission Order Nos. 399, 399-A, and 399-B requiring payment of Btu adjustment refunds by first sellers of natural gas.

I&S states it is a small partnership which at this time has no assets and is no longer conducting business. The I&S partnership was originally established to sell the production from the JA Minitry No. 2 Well in the Telferner Field, Telferner, Texas. According to I&S, one of the partners is deceased and the well is no longer productive, thus leaving the remaining partners responsible for the BTU refund obligation. I&S states that the refund obligation presents a special hardship to the partners as they are experiencing financial difficulties and do not have sufficient assets to pay the refund obligation.

The procedures applicable to the conduct of this waiver proceeding are found in Subpart K of the Commission's rules of practice and procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Rules 214 and 1106 of the Commissions rules of practice and procedure. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-22591 Filed 10-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-713-000]

Central Illinois Public Service Co.

September 30, 1986.

Take notice that on September 22, 1986, Central Illinois Public Service Company (Central Company) tendered for filing an Interconnection Agreement dated August 27, 1986, between Central Illinois Public Service Company (Central Company) and Wabash Valley Power Association, Inc. (Wabash Valley).

The Interconnection Agreement provides for coordinated interconnection operation including the interchange of Power and Energy under Service Schedule A, Seasonal Power, Service Schedule B, Short Term Power, Service Schedule C, Maintenance Power, Service Schedule D, Emergency Energy, Service Schedule E, Interchange Energy, Service Schedule F, Reserve Capacity and Energy.

Copies of this filing have been sent to Wabash Valley Power Association, Inc., the Public Service Commission of

Indiana and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said fililng should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 9, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-22586 Filed 10-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA85-71-001]

Electric Rates: Accounting; Fuel Adjustment Clause; Central Illinois Public Service Co.; Order Establishing Hearing Procedures

Issued: September 29, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On July 31, 1986, the Commission issued a letter order noting Central Illinois Public Service Company's (CIPS) disagreement with certain items contained in staff's audit report of CIPS' books and records. The disagreement relates to CIPS' accounting and fuel adjustment clause treatment of the proceeds from a coal supplier settlement.[1] CIPS was requested to advise whether it would agree to the disposition of the issues under the shortened procedures provided for by § 41.3 of the Commission's regulations. 18 CFR 41.3 (1986).

On August 28, 1986 CIPS responded that it did not consent to the shortened procedures. Instead, CIPS requested that the matter be set for hearing pursuant to § 41.7 of the Commission's regulations. 18 CFR 41.7 (1986).

Section 41.7 of the regulations provides that the proceeding will be assigned for hearing in case consent to the shortened procedures is not given. Accordingly, the Commission will set these matters for hearing.

[1] *See* Tariff Compliance Exceptions on the attached schedule.

Any interested person seeking to participate in this docket shall file a protest or a motion to intervene pursuant to Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214) no later than 15 days after the date of publication of this order in the **Federal Register.**

The Commission Orders

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act, the provisions of the Federal Power Act, particularly sections 205, 206, and 301 thereof, and pursuant to the Commission's Rules of Practice and Procedure (18 CFR Chapter I), a public hearing shall be held concerning the appropriateness of CIPS' accounting practices as discussed above.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within 45 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426. The Presiding Judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's rules of practice and procedure.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment—Central Illinois Pulbic Service Company

Contested Issue—Accounting and Fuel Adjustment Clause Treatment of Coal Supplier Settlement Proceeds

The Company did not seek Commission approval to retain for the benefit of its stockholders a portion of fuel supplier settlement proceeds and its proposed method of distributing a portion of the balance among its wholesale customers.

On September 21, 1976, the Company filed suit against Consolidation Coal Company (Consol) alleging that Consol had failed to deliver the quantity and quality of coal called for in the contract between the two parties. On August 28, 1980, the Company filed an amended complaint, alleging breaches of warranty and fraudulent conduct on the part of Consol. The Company argued that Consol consistently failed to deliver coal which met the contract minimum of 9,500 BTU. The Company sought damages in excess of $10 million. Consol also filed counterclaims against the Company, seeking an unspecified amount of damages for alleged breaches of the contract by the Company. During the trial, the Company introduced evidence of damages of about $90 million. On March 21, 1983, the parties agreed to an out-of-court settlement. The settlement agreement called for payment of $25 million by Consol to the Company and termination of the contract. Consol paid the Company $5,000,000 immediately and the remaining balance was paid on June 10, 1983.

The Company initially recorded the settlement proceeds in Account 253, Other deferred credits. The Company then credited to Account 421, Miscellanceous nonoperating income, $7 million or 28% of the refund. The $7 million was passed on to the Company's stockholders in the form of a special 10¢ per share common stock dividend in June 1983.

The Company began amortizing the remaining $18 million of the fuel supplier settlement proceeds as a credit to fuel expense during the period April 1, 1983 through March 31, 1987. The wholesale portion of the settlement proceeds has reduced the monthly allowable fuel cost in wholesale fuel adjustment clause billings beginning in April 1983.

The staff concluded that all amounts received from Consol should have been considered as an adjustment of the fuel costs charged to customers through fuel adjustment clauses unless an alternative disposition of these amounts had been approved by regulatory authorities. The Company apparently was of the same view as evidenced by its submission to the Illinois Commerce Commission for approval to pass through only $18 million of the proceeds to retail customers through the fuel adjustment clause. However, the Company did not seek Federal Energy Regulatory Commission (FERC) approval of its plan to distribute the proceeds among its wholesale customers from the Federal Energy Regulatory Commission (FERC). Absent such approval, it was improper for the Company to record in Account 421, the wholesale portion of the proceeds which it unilaterally determined not to pass on to wholesale customers as an adjustment of fuel costs.[1]

To the extent that the Company believed a portion of the Consol proceeds should not be accounted for as a reduction in fuel costs, it should have retained the wholesale portion of such amounts in Account 253 pending a determination by the FERC as to the proper disposition of the amount.

The staff recommended that the Company: (1) Determine the wholesale portion, subject to review by the FERC, of the $7 million credited to Account 421 in 1983 and record the amount in Account 253 pending a determination by the FERC of the appropriate disposition of such amounts; (2) file with the

[1] The staff does not challenge the portion of the proceeds not treated as a reduction in the cost of coal for retail fuel adjustment clause purposes because the Company's proposal to retain such amounts was approved by the Chief Accountant of the Illinois Commerce Commission in a letter dated April 21, 1983.

FERC within 60 days the plan for distributing to wholesale customers their portion of the $7 million referred to the above as well as the $18 million of Consol proceeds which the Company is currently in the process of refunding; and (3) in the future, obtain prior FERC approval of plans to dispose of amounts received from fuel suppliers.

[FR Doc. 86-22574 Filed 10-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL86-30-000]

Electric Rates: Small Power Production; Waiver; Jurisdiction; Transmission Line; Oxbow Geothermal Corp.; Order Granting in Part and Denying in Part Petition for Declaratory Relief, Noting Intervention, and Terminating Docket

Issued: September 29, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On March 24, 1986, Oxbow Geothermal Corporation (Oxbow) filed a petition for an order waiving the regulations governing interlocking directorates, security issuances, liability assumption, property disposition, and accounting and reporting regulations under the Federal Power Act (FPA). These regulations are applicable to public utilities.[1] Oxbow also seeks a declaration that its ownership of a proposed transmission line will not affect the status of its qualifying facility (QF).[2]

Oxbow proposes to build, own and operate an approximately 210 mile, 230 kV transmission line that would transmit electricity exclusively from Oxbow's small power production facility in Churchill County, Nevada, to Southern California Edison Company's (SCE) substation in Bishop, California. Oxbow will not charge SCE for the use of the transmission line to transmit the power Oxbow generates. Rather, under the power purchase contracts, SCE will pay Oxbow for the QF power on the basis of SEC's avoided costs.

Notice of Oxbow's filing was published in the **Federal Register**,[3] with comments due on or before April 14, 1986. On April 14, 1986, Northern National Resources Company, Division on Enron Corporation (Resources) filed a motion to intervene in this docket. Resources is involved in the financing, construction, and operation of qualifying cogeneration facilities in Texas, California, and elsewhere. Resources alleges that the outcome of this proceeding will affect its decision on whether to proceed with current and future qualifying cogeneration projects. Resources does not object to the filing. After outlining the various positions it believes that the Commission could adopt in this docket,[4] Resources states that it "favors an approach which will result in the least amount of regulation of these transmission lines necessarily installed as a means of delivering electricity generated by qualifying facilities to electric utilities pursuant to the Public Utility Regulatory Policies Act of 1978." Intervention, pp. 3–4.

On April 28, 1986, Oxbow filed a reply to Resources' motion to intervene. Oxbow does not object to the intervention; rather, it seeks to limit the Commission's order to the requested regulation waivers and the declaration. Oxbow contends that the Commission need not address the issues raised by Resources, although it believes that its circumstances would justify a finding that the transmission line is part of the qualifying facility[5]

Discussion

Under Rule 14 of the Commission's rules of practice and procedure (18 CFR 385.214 (1986)), Resource's timely, unopposed motion to intervene serves to make it a party to this proceeding.

Oxbow seeks complete waiver of the ratemaking regulations (18 CFR Part 35 (1986)); the accounting regulations (18 CFR Part 101 (1986)); and the reporting regulations (18 CFR Part 41 (1986)). Oxbow requests that it be allowed to file only minimal information necessary to satisfy the statutory requirements on property disposition (18 CFR Part 33 (1986)). Oxbow seeks authorization of otherwise proscribed interlocking directorates upon the filing of an abbreviated application describing the interlocks. (18 CFR Part 45 (1986)). Oxbow seeks waiver of the full filing requirements regarding the issuance of securities (18 CFR Part 34 (1986)) and the assumption of liability (18 CFR Part 34 (1986)) so that it need only file notice and receive Commission approval prior to assumption of liability or the issuance of securities. We believe that Oxbow is generally entitled to the waivers requested for the reasons stated below.

Ratemaking, Accounting, and Reporting Regulations:

We do not believe that compliance with the ratemaking, accounting, and reporting regulations are necessary in this case. The primary purpose of Parts 41, 50, 101, and 141 of our regulations is to assist the Commission in determining a public utility's cost-of-service in order to determine whether the rates are cost-based. As stated above, Oxbow will not charge transmission rates and its rates for power produced by the QF can be no greater than SEC's avoided costs. In light of the fact that rates for the purchase of power from QFs are not based on the selling facility's cost-of-service, and that Oxbow does not propose to charge for transmission service, we find that it is not necessary or in the public interest to require that Oxbow comply with Parts 41, 50, 101, and 141 of our regulations at this time. We shall therefore waive these requirements as they apply to Oxbow in this case.[6]

Waiver of Part 35 of our regulations, however, is unnecessary. Oxbow will not charge any rates when it is operating its transmission line. The only rates Oxbow will charge are for the purchase of QF generated power which our regulations already exempt from FPA regulations. *See* 18 CFR Part 292 (1986). However, Part 35 would apply if Oxbow charged a fee to transmit electricity.

Corporate Regulations:

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[1] 16 U.S.C. 824(e) (1982).

[2] Oxbow recently acquired three geothermal small power projects, in Churchill County, Nevada, each of which was certified as a qualifying small power production facility under prior ownership. Oxbow filed an application for recertification, which was later amended. On August 4, 1986, the Commission granted Oxbow's amended application for recertification. *Oxbow Geothermal Corporation*, 36 FERC ¶ 62,152 (1986).

[3] 51 FR 1,118 (1986).

[4] Resources states in its motion to intervene on p. 3:

Resources believes the Commission could take one of a number of positions concerning such installation and ownership; provided the transmission line is used solely to transmit electricity generated by a qualifying facility, the Commission could determine that the transmission line is a part of the qualifying facility; the Commission could take the approach suggested in Oxbow's petition and subject the owner of the transmission line to minimal electric utility regulation; the Commission could subject the owner of the transmission line to the entire panoply of electric utility regulation under the Federal Power Act; or the Commission could devise a hybrid of the foregoing approaches.

[5] The record with regard to the includibility of the transmission line in the qualifying facility is not well developed. However, the Commission agrees with Oxbow that this issue need not be addressed to pass upon Oxbow's request for waiver.

[6] *See also* Resources Recovery (Dade County), Inc., 20 FERC ¶ 61,138 (1982). In *Resources* the Commission waived certain regulatory requirements which applied to 30–80 MW qualifying small power production facilities; the Commisison has also waived certain regulatory requirements which apply to public utilities under appropriate circumstances. *See* Cliffs Electric Service Corp., *et al.*, 33 FERC ¶ 61,372 (1985) (waiving regulatory requirements where natural resources companies with generating facilities had excess capacity being sold to utilities); **Ssee also** Citizens Energy Co., 35 FERC ¶ 61,196 (1986) (waiving regulatory requirements for a non-profit entity engaging in jurisdictional transactions).

Oxbow seeks waivers in order to file the minimum information necessary to satisfy statutory requirements on property disposition; to dispense with the full filing requirements regarding the issuance of securities and the assumption of liability; to authorize otherwise proscribed interlocking directorates upon the filing on an abbreviated application describing the interlocks; and to require notice to and approval of the Commission prior to undertaking such actions. Since the transmission line is being used exclusively to transmit power generated by the QF, we find no reason to impose the full filing requirements of Part 33 on Oxbow.[7] Rather, we shall require Oxbow to file only such information as will satisfy the minimum requirements of section 203 of the FPA. We believe reduction of the regulatory impact of this section on Oxbow may encourage the development of the small power production industry. *See generally* 20 FERC ¶ 61,138.

Section 204 of the FPA allows a public utility to issue securities or assume liability only if the Commission approves the issuance or assumption after making specific findings. Section 204 requires that an opportunity for hearing be given before granting an application under section 204 ands allows the Commission to condition or modify such orders.[8] For the same reasons stated above, we find that it is in the public interest to waive the full filing requirements of section 204 as contained in Part 34 of the regulations. However, Oxbow will be required to file notice of any proposed issuance or assumption consistent with the provisions of section 204 of the FPA.[9] *See generally* 20 FERC ¶ 61,138.

The Commission cannot exempt Oxbow from the requirements of section 305(c) of the FPA. Section 305(c) requires annual filings from officers or directors of public utilities who hold or held during the previous year similar positions in financial institutions, securities underwriting, or utility supply companies. Thus, Oxbow is required to file annual reports with the Commission if any of its officers or directors during that year held similar positions in certain other entities. Given that the line will transmit only QF power to the purchasing utility and the Commission's intent to encourage the development of QF's, we will lessen the regulatory burden here. *See generally* 20 FERC ¶ 61,138.

We believe that an abbreviated filing, much like that required in *Edison Electric Institute*, 14 FERC ¶ 61,286 (1981), *order on reh.*, 15 FERC ¶ 61,173 (1981), will protect both public and private interests. Accordingly, for interlocking positions involving Oxbow, we shall waive the full requirements of Part 45 of our regulations and shall instead require only the filing of an abbreviated statement identifying the interlock.[10] In order to protect against any potential harm, however, we shall reserve the right to require, at any time, a further showing that Commission authorization should continue and that neither public nor private interests will be adversely affected by the holding of such interlocks. *See generally* 20 FERC ¶ 61,138.

It should be noted that we are inclined to grant the above waivers because of the particular circumstances of this case. Here Oxbow is not transmitting power for any other entity. If Oxbow's actions deviate from those outlined here, the waivers may no longer be appropriate. Any deviation from these actions would require notice to the Commission.

C. QF Status

Oxbow has requested a declaration as to the effect of its ownership of the transmission line on the benefits and exemptions it enjoys as the owner of a QF. The regulations prohibit the ownership of QFs by "a person primarily engaged in the generation or sale of electric power (other than electric power solely from . . . small power production facilities)." 18 CFR 296.206(a) (1986). Our regulations contain a specific test which states that a small power production facility "shall be considered owned by a person primarily engaged in the generation or sale of electric power if more than 50% of the equity interest in the facility is held by an electric utility. . . ." 18 CFR 292.206(b) (1986). If this test is met, the facility will be classified as a QF. Since the electric power which Oxbow intends to generate and sell comes solely from a QF, the determination that Oxbow's facility is a qualifying small power production facility and is entitled to the exemption provided under §§ 292.601 and 292.602 of the regulations remains unchanged.

The Commission Orders

(A) Oxbow's request for waiver of the Commission's accounting regulations, specifically Parts 41, 50, 101, and 141, is hereby granted.

(B) Oxbow's request for wavier of Part 33 of our regulations regarding property dispositions and consolidations is hereby granted; provided that Oxbow shall provide notice to and seek approval of the Commission prior to undertaking any such actions.

(C) Oxbow's request for waiver of Part 34 of our regulations regarding the issuance of securities and assumptions of liability is hereby granted; provided that Oxbow shall provide notice to and seek the approval of the Commission prior to undertaking any such actions.

(D) Until further order of this Commission, any person now holding or who may hold an otherwise proscribed interlock involving Oxbow is authorized to hold such positions; provided that such person files the application required in paragraph (E) below.

(E) Until further order of this Commission, the full requirements of Part 45 of the Commission's regulations, except as noted below, are hereby waived with respect to those persons subject to paragraph (D) above, and those persons instead shall file a sworn application providing the following information:

(1) Full nane and business address; and

(2) All jursdictional interlocks, identifying the affected companies and the positions held by that person.

(F) The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by the continued holding of the interlocks authorized by this order.

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[7] 18 CFR 292.601 (b) and (c) (1986), exempts geothermal OFs from section 203 of the FPA. Section 203 imposes certain requirements of notice to and approval by the Commission of the disposition of property, consolidation, and purchase of securities in excess of $50,000. Part 33 of the regulations governs the content of the reports required for these types of transactions.

[8] We note that section 204 of the FPA applies only to "public utilities." Section 201(e) of the FPA defines "public utility" as a person who owns or operates facilities subject to the jurisdiction of the Commission. Section 201(b)(1) provides that the Commission as jurisdiction over facilities "for such transmission . . . of electric energy in interstate commerce . . . ." Therefore, public utility status attaches when such interstate transmission has commenced. As a result, the issuance of securities by a person owning facilities that have not yet been used for such transmission does not require advance Commission approval. To the extent that securities issuances for the transmission line occur before any power is transmitted, advance Commission approval will not be required. *See also* 20 FERC ¶ 61,138.

[9] With regard to the hearing requirements of sections 203 and 204, we note that the Commission is not required to hold hearings where the ultimate decision would not be assisted by the receipt of evidence. City of Lafayette, Louisiana v. SEC, 454 F.2d 941 (1971). But the Commission has an obligation to consider requests for a hearing and provide an explanation of its decision not to hold a hearing if it decides one is unnecessary. *See, e.g.*, Gulf States Utilities Co. v. FPC, 411 U.S. 747 (1972).

[10] However, only the interlock which includes Oxbow would be eligible for the reduced filiing requirements described above.

(G) All requests for waivers not specifically granted herein are hereby denied.

(H) Docket No. EL86-30-000 is hereby terminated.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-22575 Filed 10-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-714-000]

The Washington Water Power Co.; Filing

September 30, 1986.

Take notice that on September 22, 1986, the Washington Water Power Company (Washington), the Seller, tendered for filing copies of a Firm Capacity and Energy Agreement dated August 1, 1986 with Puget Sound Power & Light Company, the Purchaser. Washington states that this Agreement is to be effective August 1, 1986 through June 30, 1991 with contractual provisions for its extension through June 30, 1993.

The Agreement provides for the Seller to make available to the Purchaser 55 Mw of capacity and associated energy to be scheduled by the Purchaser under provisions of the Agreement.

Washington requests an effective date of August 1, 1986, and therefore requests a waiver of the Commission's notice requirements stating that there will be no effect upon purchasers under other rate schedules.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 9, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-22587 Filed 10-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-31-004]

Western Area Power Administration; Application for Exemption

October 1, 1986.

Take notice that Western Area Power Administration (WAPA) filed an application on July 28, 1986 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on, or prior to June 30, 1988, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290.

In its application for exemption WAPA states, in part, that it should not be required to file the specified data for the following reason:

The nature of WAPA's retail service during the current reporting period is substantially the same as in previous reporting periods for which a comparable exemption was granted (Docket No. RE80-31-002 and Docket No. RE80-31-003).

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capital Street, NW., Washington, DC 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period, such person must also serve a copy of such comments on: Mr. William H. Clagett, Administrator, Western Area Power Administration, P.O. Box 3402, Golden, Colorado 80401.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-22588 Filed 10-3-86; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Notice of Public Comment Forum on Proposed Navajo Interim Power Rate

AGENCY: Western Area Power Administration.

ACTION: Notice of Public Comment Forum on Proposed Navajo Interim Power Rate.

SUMMARY: The Boulder City Area Office of the Western Area Power Administration (Western) published a "Notice of Proposed Rates and Request for Comments" in the **Federal Register** (51 FR 30120) on August 22, 1986. Interested parties were invited to submit comments concerning the rate methodology and proposed rates to Western within 90 days of the publication of the notice and at a public comment forum. This notice provides the date and location of the public comment forum.

DATE: Interested parties may submit written comments or make oral comments concerning the proposed rates at the public comment forum to be held on November 7, 1986, beginning at 9:30 a.m.

ADDRESSES: The public comment forum will be held at the Phoenix Hilton Hotel, Apache Room A, Central and Adams, Phoenix, Arizona, on the date cited above. Written comments concerning the proposed rates should be sent to: Mr. Thomas A. Hine, Area Manager, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Carter, Assistant Area Manager for Power Marketing, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005, (702) 477-3255.

Issued in Golden, Colorado, September 26, 1986.

William H. Clagett,

Administrator.

[FR Doc. 86-22540 Filed 10-3-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3090-8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICR is available for review and comment.

FOR FURTHER INFORMATION CONTACT: Patricia Minami, (202) 382–2712 or FTS 382–2712.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standard (NSPS) for Petroleum Refineries (Subpart J)—Recordkeeping and Reporting (EPA ICR #1054). (This is a reinstatement of a previously approved ICR; no changes are proposed.)

Abstract: Owners and operators of petroleum refineries are required to give notification of construction modifications, startups, shutdowns, or malfunctions. They must also report semi-annually any excess emissions of particulate matter SO_2 and CO. This information is used to identify sources subject to the standard and to monitor use of emission control equipment.

Respondents: Owners and operators of petroleum refineries.

Agency PRA Clearance Requests Completed by OMB EPA ICR #1168, Rights in Data and Contract Requirements for Delivery of Additional Data, was approved 9/17/86 (OMB #2030–0012; expires 4/30/87).

Comments on all parts of this notice may be sent to:

Patricia Minami, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), Information and Regulatory Systems Division, 401 M Street, SW., Washington, D.C. 20460

and

Wayne Leiss, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503

Dated: September 26, 1986.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Divison.

[FR Doc. 86–22411 Filed 10–3–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 86–365; File No. 20721–CD–P–1–84]

Iowa Radio Service, Inc.; Reconsideration Designating Application for Hearing

This is a summary of *Memorandum Opinion and Order on Reconsideration Designating Application for Hearing* in CC Docket No. 86–365, Adopted by the Chief, Common Carrier Bureau on September 10, 1986, and Released September 26, 1986.

The full text of the decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of the decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

1. In this *Memorandum Opinion and Order on Reconsideration Designating Application for Hearing (Designation Order),* the Chief, Common Carrier Bureau (Bureau) considers a Petition for Reconsideration filed by Waterloo Communications (Waterloo). Waterloo seeks reconsideration of *Memorandum Opinion and Order (MO&O),* Mimeo No. 5457, released June 28, 1985, which conditionally granted the application of Iowa Radio Service, Inc. (Iowa), File No. 20721–CD–P–1–84, for an additional two-way channel on frequency 454.100 MHz at Waterloo, Iowa. Waterloo argues that the *MO&O* ignored a pleading filing by Waterloo which challenged the accuracy of Iowa's traffic loading studies based upon the monitoring of Iowa's frequency by employees of a Waterloo affiliated company.

2. The Bureau finds merit in Waterloo's petition. In addition, the Bureau finds that the monitoring of Iowa's frequency does not violate 47 U.S.C. 605, but refers possible violation of 18 U.S.C. 2511(1)(a) to United States Department of Justice. Accordingly, the *Designation Order:* (1) Grants Waterloo's petition; (2) Sets aside the *MO&O;* and (3) Designates Iowa's application for hearing.

3. Within 20 days of the release date of the *Designation Order,* parties must file a written notice of their intention to appear on the day of the hearing to present evidence on the specified issues.

Ordering Clauses

4. It is further ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned application of Iowa Radio Service, Inc., File No. 20721–CD–P–1–84, is designated for hearing upon the following issues:

(a) to determine the level of use of the Station KPA312 frequency 454.025 MHz presently licensed to Iowa Radio Service, Inc., and

(b) to determine, in light of the evidence adduced pursuant to the foregoing issue, what disposition of the referenced application would best serve the public interest, convenience, and necessity.

Albert Halpin,

Chief, Common Carrier Bureau.

[FR Doc. 86–22561 Filed 10–3–86; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL HOME LOAN BANK BOARD

[No. 86–1064]

Approval of Application for Unlisted Trading Privileges; Philadelphia Stock Exchange, Inc.

Dated: September 26, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: On July 18, 1986, The Philadelphia Stock Exchange, Inc. filed with the Federal Home Loan Bank Board ("Board") an application ("Application"), pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 ("Act") and rule 12f–1 [17 CFR 240.12f–1] thereunder, for unlisted trading privileges in the following securities which are listed on one or more national securities exchange:

Great American First Savings Bank, San Diego, California (FHLBB No. 0789), Common Stock, $1.00 Par Value.

Notice of the Application and opportunity for hearing was published in the **Federal Register** on August 22, 1986, and interested persons were invited to submit written data, views and arguments within 15 days. See Board Resolution No. 86–846, dated August 14, 1986. (51 FR 30124, August 22, 1986). The Board received no comments with respect to the Application. Notice is hereby given that the Board approved the Application for unlisted trading privileges in these securities on September 23, 1986.

SUPPLEMENTARY INFORMATION: The Board finds that the approval of the Application for unlisted trading

privileges in these securities is consistent with the maintenance of fair and orderly markets and the protection of investors. As a national securities exchange registered with the Securities and Exchange Commission ("Commission") pursuant to Section 6 of the Act, the Philadelphia Stock Exchange is subject to the provisions of paragraph (b) of that section, and to the Commission's inspection authority and oversight responsibility under sections 17 and 19 of the Act and the rules and regulations thereunder. Transactions in the subject securities, regardless of the market in which they occur, are reported in the consolidated transaction reporting system contemplated by Rule 11Aa3–1 under the Act [17 CFR 240.11Aa3–1]. The availability of last sale information for the subject securities should contribute to pricing efficiency and to ensuring that transactions on the Philadelphia Stock Exchange are executed at prices which are reasonably related to those occurring in other markets. Further, the approval of the Application will provide increased opportunities for competition among brokers and dealers and among exchange markets consistent with the purposes of the Act and the objectives of the national market system. Finally, the Board received no comments indicating that the granting of the Application would not be consistent with the maintenance of fair and orderly markets and the protection of investors.

Accordingly, pursuant to section 12(f)(1)(B) of the Act, the Application for unlisted trading privileges in the above named securities was approved on September 23, 1986.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Acting Secretary.

[FR Doc. 86–22496 Filed 10–3–86; 8:45 am]

BILLING CODE 6720–01–M

[No. 86–1072]

Approval of Application To Withdrawal Securities From Listing and Registration On the American Stock Exchange

Date: September 29,1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: On September 15, 1986, the American Stock Exchange ("AMEX") filed with the Federal Home Loan Bank Board ("Board") an application ("Application"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(c) thereunder, for the withdrawal from listing and registration on the AMEX of the following securities, since the Board determined that the Association was insolvent and appointed the Federal Savings and Loan Insuance Corporation ("FSLIC") as sole receiver on July 18, 1986:

Sun Savings and Loan Association, San Diego, California (FHLBB No. 7780), Guarantee Stock, Par Value $4.

The Association's common stock has been listed and registered on the AMEX and, following the receivership, trading in such securities has been suspended by the AMEX, since July 18, 1986.

Notice is hereby given that the Board, pursuant to section 12(d) of the Act and Rule 12d2–2(c) thereunder, approved the Application for the withdrawal from listing and registration on the AMEX, effective as of the opening of business on September 25, 1986.

SUPPLEMENTARY INFORMATION: The reasons stated in the AMEX's application for withdrawing the securities from listing and registration on the AMEX include the following:

1. The Constitution of the AMEX provides that its Board of Governors may suspend dealings in or remove any security from listing and registration at any time.

The delisting policies of the AMEX provide, among other things, that consideration may be given to the suspension or removal of a security when ". . . the financial condition and/or operating results of the issuer appear to be unsatisfactory . . ."

In applying these policies, the AMEX gives consideration to delisting the securities of an issuer which ". . . has a tangible net worth of less than $2,000,000 if such company has sustained losses from continuing operations and/or net losses in two of its three most recent fiscal years . . ." or it it ". . . has sustained losses which are so substantial in relation to its overall operations or its existing financial resources, or its financial condition has become so impaired that it appears questionable, in the opinion of the AMEX, as to whether such company will be able to continue operations and/or meet its obligations as they mature . . ."

2. The common stock of the Association does not qualify for continued listing under the AMEX's policies for the following reasons:

(a) The Association has incurred losses in each of its past two fiscal years ended December 31, 1985 as follows:

Fiscal years ended December 31,	Net (loss)
1984	$(5,765,150)
1985	(5,088,644)

(b) According to the Association's most recent Form 10–Q, the Association reported a net loss of $1,917,000 for the three months ended March 31, 1986 at which time its tangible net worth amounted to a deficit of $646,000.

(c) In a letter to the Association's stockholders dated July 18, 1986, the Board advised that the Association was insolvent, that the FSLIC had been appointed as sole receiver for the Association, and that the FSLIC has been authorized to dispose of the Association's assets.

3. In reviewing the eligibility of the Association's common stock for continued listing, the AMEX has complied with its delisting policies as follows:

(a) By letter dated July 22, 1986, the FSLIC was formally advised of the Association's status in relation to the delisting policies of the AMEX and furnished a copy of the AMEX's delisting policies and procedures.

(b) Since FSLIC did not request the Association's continued listing, the matter was reviewed by the AMEX on the basis of existing information and a determination was reached that the Association's common stock did not qualify for continued listing under the AMEX's policies and guidelines. This determination along with the Association's right of appeal was communicated to the FSLIC by letter dated August 19, 1986.

(c) By letter dated August 29, 1986, the FSLIC did not exercise its right to appeal the determination. Accordingly, the decision to remove the Association's common stock from listing and registration on the AMEX has become final in accordance with the rules and guidelines of the AMEX.

Any interested person may inspect the Application at the Public Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

The Board, pursuant to section 12(d) of the Act and Rule 12d2–(c) thereunder, having considered the facts stated in the Application and having due regard for the public interest and protection of investors, approved the Application for withdrawal from listing and registration on the AMEX, effective as of the opening of business on September 25, 1986.

FOR FURTHER INFORMATION CONTACT: John P. Harootunian, Assistant General Counsel for Securities Policy, Corporate and Securities Division, Office of General Counsel, at (202) 377–6415 or at the above address.

By the Federal Home Loan Bank Board.
Nadine Y. Washington,
Acting Secretary.
[FR Doc. 86-22495 Filed 10-3-86; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Notice of Ageement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following ageement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requiremetns for comments are found in 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 024-003079-008
Title: Tampa Port Authority Lease Agreement
Parties:

Tampa Port Authority
Eller & Co., Inc.

Synopsis: The proposed amendment would modify the annual terms of the lease, change the designations in the lease of three berth numbers and provide for calculation of various revenue garantees and rental credits from a period of approximately 18 years, 9 months with two-five year options.

Agreement No.: 024-003079-009
Title: Tampa Port Authority Lease Agreement
Parties:

Tampa Port Authority
Eller & Co., Inc.

Synopsis: The proposed amendment would add 7.5 acres of bear land to the original agreement andprovide for periodic rental increases and rental credits for a period of 19 years, 2 months with two 5-year options.

Agreement No.: 224-011007
Title: Tampa Port Authority Lease Agreement
Parties:

Tampa Port Authority
Trans-Florida Warehouse Corporation
Garrision Terminals, Inc.

Synopsis: The proposed amendment provides for lease of land (certain premises situated in Hillsborough County, Florida) by the Tampa Port Authority to Trans-Florida Warehouse and Garrison Terminals, Inc.

Agreement No.: 224-011008
Title: Tampa Port Authority Lease Agreement
Parties:

Tampa Port Authority (Authority)
ST. phillips Towing Company (St. phillips)

Synopsis: Agreement No. 224-011008 provides for leaes by the Authority to St. phillips of one building consisting of 966 square feet to be utilized in their operations as s tug and towing company. The term of the agreement is for 10-½ years with two 5-year option periods with a 15% increase in rental.

Agreement No.: 224-011009
Title: Tampa Terminal Agreement
Parties:

Tampa Port Authority (Port)
St. Phillips Towing Company (St. Phillips)

Synopsis: The proposed agreement would permit the Port to lease 1.578 acres at Hookers Point in the Port of Tampa to St. Phillips for use in conjunction with St. Phillips' tug boat operations.

Agreement No.: 224-011010
Title: Tampa Terminal Agreement
Parties:

Tampa Port Authority (Port)
Petroleum Packers, Inc. (PPI)

Synopsis: The proposed agreement would permit the Port to lease approximately 4.2 acres of land to PPI for the construction of warehouse and office space at Hookers Point in the Port of Tampa.

Agreement No.: 224-011011
Title: Tampa Terminal Agreement
Parties:

Tampa Port Authority (Port)
St. Phillips Towing Company (St. Phillips)

Synopsis: The proposed agreement would permit the Port to lease space at Hookers Point in the Port of Tampa to St. Phillips for use in conjunction with its tug boad operations.

Agreement No.: 224-011012
Title: Tampa Terminal Agreement
Parties:

Tampa Port Authority (Port)
Tampa Bay Terminals Company (TBTC)

Synopsis: The proposed agreement would permit the Port to lease to TBTC approximately 4 acres of land at the George B. Howell Maritime Center in the Port of Tampa for use in conjunction with TBTC's scrap metal export operation.

Dated: October 1, 1986.

By Order of the Federal Maritime Commission.
Joseph C. Polking,
Secretary.
[FR Doc. 86-22535 Filed 10-3-86; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of August 19, 1986

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on August 19, 1986[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting indicates a mixed pattern of developments but suggests on balance that economic activity is expanding moderately in the current quarter. In July total nonfarm payroll employment grew strongly, boosted in part by the return of striking workers. However, continued weakness in the industrial sector was reflected in further declines in employment in manufacturing and mining. The civilian unemployment rate moved down to 6.9 percent from 7.1 percent in June. Industrial production declined slightly further in July. The nominal value of total retail sales was about unchanged during the month, as sales of new autos declined somewhat but spending on other consumer goods remained strong. Housing starts fell somewhat in May and June from a relatively high level earlier in the year. Business capital spending appears to have remained weak, partly reflecting continuing declines in the energy sector. While fluctuations in energy prices have caused some month-to-month volatility, on average prices and wages are rising more slowly this year than in 1985.

The trade-weighted value of the dollar against major foreign currencies has continued to decline since the July 8-9 meeting of the Committee. The U.S. merchandise trade deficit in the second quarter appears to have been about unchanged from the first quarter. The value of total exports and of total imports remained about the same in the two quarters, although the value of oil imports continued to fall in the second quarter while that of non-oil imports rose further.

[1] Copies of the Record of policy actions of the Committee for the meeting of August 19, 1986, are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Growth of M2 and especially of M3 picked up in July, lifting expansion of these two aggregates for the year through July well into the upper portion of their respective ranges established by the Committee for 1986. In July M1 continued to grow at a rate close to the very rapid pace of the second quarter. Expansion in total domestic nonfinancial debt remains appreciably above the Committee's monitoring range for 1986. Short-term interest rates have declined somewhat since the July meeting of the Committee, while most long-term interest rates are about unchanged to slightly lower on balance. On July 10, the Federal Reserve Board approved a reduction in the discount rate from 6½ to 6 percent.

The Federal Open Market Committee seeks monetary and financial conditions that will foster reasonable price stability over time, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives the Committee agreed at the July meeting to reaffirm the ranges established in February for growth of 6 to 9 percent for both M2 and M3, measured from the fourth quarter of 1985 to the fourth quarter of 1986. With respect to M1, the Committee recognized that, based on the experience of recent years, the behavior of that aggregate is subject to substantial uncertainties in relation to economic activity and prices, depending among other things on the responsiveness of M1 growth to changes in interest rates. In light of these uncertainties and of the substantial decline in velocity in the first half of the year, the Committee decided that growth of M1 in excess of the previously established 3 to 8 percent range for 1986 would be acceptable. Acceptable growth of M1 over the remainder of the year will depend on the behavior of velocity, growth in the other monetary aggregates, developments in the economy and financial markets, and price pressures. Given its rapid growth in the early part of the year, the Committee recognized that the increase in total domestic non-financial debt in 1986 may exceed its monitoring range of 8 to 11 percent, but felt an increase in that range would provide an inappropriate benchmark for evaluating longer-term trends in that aggregate.

For 1987 the Committee agreed on tentative ranges of monetary growth, measured from the fourth quarter of 1986 to the fourth quarter of 1987, of 5–1/2 to 8–1/2 percent for M2 and M3. While a range of 3 to 8 percent for M1 in 1987 would appear appropriate in the light of most historical experience, the Committee recognized that the exceptional uncertainties surrounding the behavior of M1 velocity over the more recent period would require careful appraisal of the target range at the beginning of 1987. The associated range for growth in total domestic nonfinancial debt was provisionally set at 8 to 11 percent for 1987.

In the implementation of policy for the immediate future, the Committee seeks to decrease slightly the existing degree of pressure on reserve positions, taking account of the possibility of a change in the discount rate. This action is expected to be consistent with growth in M2 and M3 over the period from June to September at annual rates of about 7 to 9 percent. While growth in M1 is expected to moderate from the exceptionally large increase during the second quarter, that growth will continue to be judged in the light of the behavior of M2 and M3 and other factors. Somewhat greater or lesser reserve restraint might be acceptable depending on the behavior of the aggregates, the strenghth of the business expansion, developments in foreign exchange markets, progress against inflation, and conditions in domestic and international credit markets. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a federal funds rate persistently outside a range of 4 to 8 percent.

By order of the Federal Open Market Committee, September 30, 1986.

Normand Bernard,

Assistant Secretary, Federal Open Market Committee.

[FR Doc. 86–22545 Filed 10–3–86; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration; Statement of Organization, Functions, and Delegations of Authority

This notice establishes Part M, Family Support Administration in the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services. This notice announces the organizational structure and assignment of responsibilities for the Family Support Administration, as established April 4, 1986 (51 FR 11641). In addition, this notice amends: Part S, Social Security Administration, as last amended at 49 FR 4989 (February 9, 1984); Chapter SF, Office of Family Assistance, as last amended at 49 FR 49920 (February 9, 1984); Chapter SK, Office of Refugee Resettlement, as last amended at 50 FR 34760 (August 27, 1985); Part X, Chapter XW, Office of Child Support Enforcement, as last amended at 50 FR 46515 (November 8, 1985); and Part C, Chapter C, Office of Community Services, as last amended at 48 FR 43728 (September 26, 1983) to reflect the transfer of these organizations into the Family Support Administration. The changes are as follows:

1. Establish Part M, Family Support Adminstration, of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services to read as follows:

Chapter M, Family Support Administration

M.00 Mission. The Family Support Administration (FSA) provides leadership and direction to plan, manage and coordinate the nationwide administration of financial assistance and several other assistance programs designed to promote stability, economic security, responsibility and self-support for families. FSA administers and directs the following family support programs: Aid to Families with Dependent Children (AFDC); Aid to the Aged, Blind and Disabled in Guam, Puerto Rico and the Virgin Islands; the U.S. Repatriate Programs; the Low Income Home Energy Assistance Program (LIHEAP); programs providing domestic refugee and entrant resettlement assistance; and the Community Services Block Grant and Discretionary Grant Programs. FSA jointly administers the Work Incentive Program (WIN) with the Assistant Secretary for Employment and Training, Department of Labor. The Administrator of FSA also serves as Director of the Office of Child Support Enforcement.

FSA develops, recommends and issues policies, procedures and interpretations to provide direction to these programs. It directs reviews, provides consultation and conducts negotiations to achieve adherence to Federal law and regulations for administration of these programs. FSA assesses State performance in administering these programs; reviews and approves or disapproves State Plan materials; and encourages, initiates and supports actions to improve program effectiveness and efficiency. The Administration directs financial management and cost analyses in the review and approval of expenditure estimates as well as State formula grant awards and discretionary grants related to these several programs.

Directs, coordinates, manages and provides leadership in planning and developing FSA programs; supervises the use of research, demonstration and impact evaluation funds, and promotes the development of an integrated family support system. FSA provides national leadership to develop and coordinate public and private programs and a focal point for States in the administration of financial assistance and vital programs which promote family stability.

M.10 Organization. The Family Support Administration is a principal operating division of the Department of Health and Human Services. FSA is headed by the Administrator of the Family Support Administration, who

reports directly to the Secretary and also serves as the Director of the Office of Child Support Enforcement. FSA consists of:

Office of the Administrator (MA)
Office of Management and Information Systems (MB)
Office of Communications (MC)
Office of Policy (ME)
Office of Financial Management (MF)
Office of Family Assistance (MH)
Office of Refugee Resettlement (MJ)
Office of Child Support Enforcement (MK)
Office of Community Services (ML)

M.20 Functions. The functions of the organizational elements of FSA are summarized in this chapter and are described in detail in successive chapters.

A. The Office of the Administrator of the Family Support Administration provides executive direction, leadership, and guidance to all FSA components; advises the Secretary and Under Secretary of FSA programs; and recommends actions and strategies to improve coordination of FSA efforts with other programs, agencies and governmental levels (or jurisdictions). Directs equal employment opportunity and civil rights policies and programs for FSA. Provides membership on the National Coordinating Committee for WIN.

B. The Office of Management and Information Systems (OMIS) provides management and administrative support and analysis for FSA including personnel, staff development, support services, management analysis, and organizational studies. Serves as the focal point for liaison with FSA regional offices. Provides management and oversight of FSA internal systems and of State information systems which support FSA programs.

C. The Office of Communications (OC) provides leadership, direction and oversight to plan, develop and assure consistency of FSA's public affairs policy and internal/external communications. The Office of Communications serves as the Administrator's principal public affairs policy advisor and provides centralized professional communication services.

D. The Office of Policy (OP) provides leadership, direction and oversight to plan, develop and assure consistency of FSA program policies among FSA components and between HHS Operating Divisions. Develops and manages crosscutting research and demonstration programs including evaluation proposals and projects and the conduct of special studies on programmatic issues of priority concern to the FSA Administrator. Serves as the focal point for legislative development activities including Congressional Affairs in FSA.

E. The Office of Financial Management (OFM) provides leadership to establish and monitor financial management objectives, policies and controls necessary for the implementation and execution of FSA programs. Reviews and coordinates internal financial operating plans developed by FSA components and provides financial systems liason. Provides technical processing of grant awards; manages procedures for handling grant disallowances and appeals.

F. The Office of Family Assistance (OFA) provides direction and technical guidance to the nationwide administration of the following public assistance programs: Aid to Families with Dependent Children (AFDC); Aid to the Aged, Blind and Disabled in Guam, Puerto Rico and the Virgin Islands; the U.S. Repatriate Programs; Emergency Welfare Services; and the Low-Income Home Energy Assistance Program (LIHEAP). It develops, recommends and issues policies, procedures and interpretations to provide direction to these programs. The Office assesses the performance of States in administering these programs; reviews State planning for administrative and operational improvements; and supports actions to improve program effectiveness. It directs reviews; provides consultations; and conducts necessary negotiations to achieve adherence to Federal law and regulations in State plans for public assistance program administration.

G. The Office of Refugee Resettlement (ORR) plans, develops, and directs implementation of a comprehensive program for domestic refugee and entrant resettlement assistance. The Office provides direction and technical guidance to the nationwide administration of programs funded from the ORR refugee and entrant resettlement appropriations. It develops, recommends, and issues program policies, procedures, and interpretations to provide program direction. The Office monitors and evaluates the performance of States and other public and private agencies in administering these programs and supports actions to improve them. It provides national leadership in the development and coordination of national, public and private programs giving refugee and entrant assistance.

H. The Office of Child Support Enforcement (OCSE) provides leadership in the planning, development, management and coordination of the Child Support Enforcment (CSE) program and activities authorized and directed by title IV–D of the Social Security Act and other pertinent legislation. The general purpose of the CSE legislation is to require States to enforce support obligations owned by absent parents of their children by locating absent parents, establishing paternity when necessary and obtaining child support. The specific responsibilities of this office are to: establish policies and standards for State programs for locating absent parents, establishing paternity, and obtaining child support; review and approve or disapprove State plan material; conduct annual audits of State programs to assure their conformity with appropriate requirements and conduct other audits as may be necessary; assist States in establishing adequate reporting procedures and maintaining records for the operation of the CSE programs; maintain records of all amount collected and disbursed under the CSE program and of the costs incurred in collecting such amounts; and provide technical assistance to the States to help them establish effective systems for establishing paternity and collecting child support. Operates Parent Locator System.

I. The Office of Community Services (OCS) is responsible for administering: (1) The Community Services block grant and discretionary grant programs established by section 672 and 681 of the Omnibus Reconciliation Act (OBRA) of 1981 (Pub. L. 97–35); (2) the community development credit union programs administered under subchapter A of chapter 8 of subtitle A of title VI of said Act; (3) the close-out of the Community Services transition project grants authorized by section 682 of OBRA for implementation during Fiscal Year (FY) 1982, at the discretion of the State governments not electing to administer Community Services Block Grants in FY 1982, and the closeout thereof; and (4) the programmatic close-out functions related to funds awarded by the Community Services Administration (CSA) in FY 1981 and prior years.

Chapter MA. Office of the Administrator of the Family Support Administration

MA.00 Mission. The Office of the Administrator of the Family Support Administration advises the Secretary and Under Secretary of Health and Human Services and provides direction and leadership to manage the nationwide administration of assistance programs designed to provide economic security and promote self-support for

families. Directs, coordinates, manages and provides leadership in planning and developing FSA programs, policies and special initiatives; supervises use of research and impact evaluation funds which increase alternatives to public assistance dependency and which promote program improvements to target assistance to the most needy. Provides direction and leadership to improve efficiencies in FSA programs. Directs equal employment opportunity and civil rights programs for FSA.

MA.10 Organization. The Office of the Administrator is headed by the Administrator of the Family Support Administration who reports directly to the Secretary and consists of: Immediate Office of the Administrator; Executive Assistant; and the Executive Secretariat.

MA.20 Functions. A. The Immediate Office of the Administrator is responsible to the Secretary for carrying out FSA's mission and provides general supervision to the major components of FSA. These responsibilities include providing executive leadership and direction to plan and coordinate FSA program activities to assure their effectiveness; approving instructions, policies, publications, and grant awards issued by FSA staff; representing FSA in relationships with government and non-government groups; and effectively utilizing FSA resources.

The Administrator serves as the Director of the Office of Child Support Enforcement and on the National Coordinating Committee for the Work Incentive Program. The Office jointly administers the WIN Program with the Assistant Secretary for Employment and Training, Department of Labor. The Deputy Administrator for FSA assists the Administrator in carrying out these responsibilities and acts in the absence of the Administrator.

B. The Executive Assistant to the Administrator assists the Administrator by performing special assignments on critical issues impacting FSA programs. Ensures coordination and/or integration of operational activities among the FSA components. Represents the Office of the Administrator in meetings with external groups and serves as liaison to the Deputy Under Secretary for Intergovernmental Affairs.

C. The Executive Secretariat ensures that issues requiring the attention of the Administrator, Deputy Administrator and/or Executive Staff are addressed on a timely and coordinated basis. Facilitates decisions on matters requiring immediate action including White House, Congressional and Secretarial assignments. Serves as FSA liaison with HHS Executive Secretariat and as audit liaison with the General Accounting Office and the Department's Office of Inspector General. Receives, assesses and controls incoming correspondence and assignments to the appropriate FSA unit(s) for response and action. Provides assistance and advice to FSA staff on the development of responses to corespondence and on the context and style of completed assignments. Corrdinates and/or prepares Congressional correspondence. Tracks development of periodic reports and facilitates Departmental clearance.

Exercises quality control for all major written work products for executive signature. Coordinates and prepares program responses/reports for FSA. Serves as the Freedom of Information Officer for FSA; handles hotline calls received by the Office of Inspector General and the General Accounting Office on FSA operations and personnel.

Chapter MB. Office of Management and Information Systems

MB.00 Mission. The Office of Management and Information Systems (OMIS) is a staff office for the FSA and advises the Administrator in the areas of internal administration and management of FSA, internal information systems in FSA and State automated systems designed to support FSA programs. Provides leadership, guidance and liaison throughout FSA on administrative policies, procedures and activities including: personnel management, employee development, management studies and assessments, facilities and material management and similar supporting services. Serves as the focal point for liaison with FSA regional offices. Establishes policy, requirements, standards and guidelines for State automated data processing (ADP) systems which support FSA programs and operations.

MB.10 Organization. The Office of Management and Information Systems is headed by an Associate Administrator who reports directly to the Administrator, and consists of: Office of the Associate Administrator, Division of Management and Regional Operations and Division of Information Systems.

MB.20 Functions. A. Office of the Associate Administrator directs and coordinates all elements of the Office of Management and Information Systems; provides guidance and services to FSA staff and program components, in accordance with HHS and other federal policy, in the areas of personnel; administrative procedures, policies and requirements; support services and management analysis. Directs activities to plan, budget, direct, promote and control information technology for FSA programs and internal operations.

Provides oversight of relationships between FSA headquarters and FSA regional offices to insure effective operations, communications and regional representation of FSA issues.

B. Division of Management and Regional Operations provides services, support and liaison to meet the management and operational needs of FSA components. Provides services directly or through FSA program administrative staff. Functions as liaison between FSA components and the Office of the Assistant Secretary for Personnel to provide personnel management support including staff resource planning, position development position management, recruitment, employee relations, labor relations and staff development. Manages the performance recognition systems and the systems of awards for FSA. Coordinates implementation of the Equal Opportunity and Affirmative Action programs for FSA in accordance with Departmental policies and procedures. Provides administrative management support services including coordination and management of office space, equipment, supplies, telecommunications, mail, messenger, printing, publication distribution, inventory control, contracts, procurement for FSA staff offices, safety, forms/records management, payroll and travel. Performs management studies, analysis and evaluations of administrative processes and functions in FSA programs and staff components to ensure FSA organizational and operational effectiveness. Develops administrative management policies and procedures. Develops and tracks administrative plans for personnel, facilities and equipment. Studies structural, functional and management problems of particular interest to the Administrator. Acts as liaison with the Assistant Secretary for Management and Budget in coordinating organizational proposals requiring Secretarial approval; maintains official organizational files for FSA. Prepares formal program, administrative, and personnel delegations for authority for the Administrator.

Serves as FSA focal point for liaison between FSA regional offices and the Administrator on region-related matters; supports the FSA Regional Administrators in administering regional office activities and establishing and implementing crosscutting program and operational initiatives, develops and implements systems and procedures for communicating with the regional offices

and monitoring and evaluating regional office operations. Plans for the utilization of regional resources to accomplish approved objectives. Develops work measurement techniques and tools and provides tracking and evaluation of the use of regional resources. Works with other FSA organizations to plan and clarify requirements placed on regional offices. Monitors regional involvement in operational planning initiatives to assure fulfillment of FSA goals and objectives; and collects and analyzes information on regional program, operational and administrative issues for submission to the Administrator.

C. Division of Information Systems develops and assists in the planning and installation of automated systems for program use by the States; provides consulting services and technical assistance to States on Advance Planning Documents (APD) for Federal financial participation. Reviews, evaluates and approves requests for Federal matching funds for automated State/local Public Assistance and Child Support Enforcement programs and conducts periodic reviews and certification of State automated data processing (ADP) installations. Establishes and maintains ADP standards for the States.

Provides computer services, automated systems design, development and maintenance services to FSA programs. Manages, maintains and operates Agency Computer Center. Develops long range hardware and telecommunication acquisitions plans. Provides technical assistance on automated systems to State/local IV-D Agencies for Federal Parent Locator Services, Federal Tax Refund Offset Service and Project 1099. Designs, develops and implements application systems to support FSA program requirements. Manages and maintains Management Information Systems for all FSA components. Manages an Information Center offering services such as design assistance, application evaluation, user training, new product evaluation and specialized technical assistance.

Develops the information resource management (IRM) policy, procurement plan and budget, and monitors the approval plan/budget for potential overruns in the area of equipment leases, telecommunications services and service contracts. Coordinates the development of the FSA ADP Security Management Plan and enforces ADP directives to ensure compliance.

Chapter MC. Office of Communications

MC.00 Mission. The Office of Communications develops, directs and coordinates public affairs and communication services for the Administrator, FSA. In this capacity provides leadership, direction and oversight in the promoting and marketing of FSA's public affairs policies, programs and initiatives.

MC.10 Organization. The Office of Communications is headed by an Associate Administrator who reports directly to the Administrator and consists of: Office of the Associate Administrator, Division of Public Affairs and the Division of Communications Planning.

MC.20 Functions. A. Office of the Associate Administrator provides direction and executive leadership in the areas of public relations policy and communication services. Serves as the principal advisor to the Administrator of FSA in the areas of public affairs. Plans, designs and manages the promoting and marketing of FSA programs. Coordinates and serves as FSA liaison with the Assistant Secretary for Public Affairs. Serves as Regional Liaison on public affairs issues.

B. Division of Public Affairs develops and implents public affairs strategies to achieve FSA program objectives in coordination with other FSA components. Coordinates press strategy. Responds to all media inquiries concerning FSA programs and related issues. Develops fact sheets, news releases, feature articles for magazines and other publications on FSA programs and initiatives. Manages preparation and clearance of speeches and official statements on FSA programs. Manages the speaker request system. Advances trips of the FSA Adminstrator and Deputy Administrator including speaking engagements. Monitors media outlets and provides appropriate summaries to FSA components. Manages preparation and clearance of audio-visual products and publications including planning, budget oversite and technical support. Corrdinates regional public affairs policies and public affairs activities pertaining to FSA programs and initatives.

C. *Division of Communications Planning* serves as the focal point for development communication strategies with States, special interest groups, professional organinzations, and other Federal agencies. Reviews correspondence and other releases of a sensitive or controversial nature requiring the Administrator's or Secretary's signature. Tracks Meetings, conferences and proposals and legislative positions of outside groups. Coordinates marketing of FSA initiatives to the above groups. Fields requests for information on FSA programs and positions from the above groups. Manages FSA conference plans and preparation including organizing, coordinating conferences, workshops and other events promoting FSA policies and priorities. Develops and coordinates approaches for meeting internal communication needs. Coordinates FSA representation at non-FSA sponsored meetings and conferences.

Chapter ME Office of Policy

ME.00 Mission. The Office of Policy (OP) is a staff office for the Family Support Administration responsible for managing the policy, planning, legislation, Congressional affairs, research, evaluation and special program initiatives within the Family Support Administration (FSA). Plans, develops and monitors strategies for promoting FSA program directions; manages agency-wide planning systems for determining program goals, objectives and priorities and for operational implementation. Recommends to and advises the Administrator, FSA on all policy matters in FSA. Ensures consistency with overall Administration, Departmental and FSA policies for all FSA programs. Serves as the focal point for Congressional and legislative activities affecting FSA. Coordinates the development of priority areas for funding research and evaluation programs; manages crosscutting research, demonstration and evaluation projects.

ME.10 Organization. The Office of Policy is headed by an Associate Administrator who reports directly to the Administrator, Family Support Administration, and consists of: Office of the Associate Administrator, Division of Policy and Legislation, Division of Research, Demonstration and Evaluation and Division of Planning and Priority Initiatives.

ME.20 Functions. A. Office of the Associate Administrator provides direction and executive leadership to OP in the administration of its responsibilities. Serves as the principal advisor to the Administrator on all policy-relatd matters for FSA. Serves as the focal point of legislative and Congressional activities affecting FSA. Coordinates program policies and policy analysis. Provides advice to the Administrator on all matters related to policy, planning, research, evaluation and demonstration issues and programs.

Manages special projects and initiatives of priority concern to the Administrator.

B. Division of Policy and Legislation provides leadership for development of policy and legislation and for ensuring consistency of policies among FSA program and staff offices and with other HHS Operating Divisions. Develops short and long range policy strategies, goals and objectives and ensures their accomplishment for FSA. Reviews and clears all policy relevant materials. Coordinates, reviews and clears all FSA regulations. Reviews and evaluates program statistics and performance to determined policy effectiveness and develops proposals for changes in policies, regulations and legislation. Represents FSA in Departmental legislative development and manages the legislative planning cycle for FSA.

Serves as the focal point for Congressional affairs in FSA; counsels and advises the FSA Administrator and program directors on varous aspects of Congressional relations. Serves as liaison to the Assistant Secretary for Legislation. Tracks and reports on legislative development.

C. Division of Research, Demonstration and Evaluation provides guidance and oversight to FSA program components in the conduct of research, demonstration and evaluation (RD&E) and discretionary programs. Identifies major issues which may merit research and demonstration intervention. In cooperation with program components, develops research and demonstration planning guidance to be used by those components; reviews and recommends approval of RD&E plans prepared by the program components; prepares the annual FSA RD&E plan. Clears all FSA discretionary program announcements for compliance with the discretionary funds plan; insures the compliance of all grant awards with the discretionary plans; tracks overall progress of projects funded. Develops crosscutting research and demonstration and evaluation programs, priority statements and project proposals; manages crosscutting research and demonstration and evaluation programs. Ensures the transfer of technologies and best practices of crosscutting research, demonstration and evaluation projects; ensures that products of crosscutting RD&E projects are disseminated to the field.

D. Division of Planning and Priority Initiatives develops and implements an FSA-wide long and short range planning system. Develops the planning guidance for the FSA Administrator and provides guidance and technical assistance to FSA in developing operational plans. Develops and implements a review system to assess progress in implementing plans. Develops and manages priority initiatives for which the Administrator has lead responsibility for the Department.

Chapter MF Office of Financial Management

MF.00 Mission. The Office of Financial Management (OFM) is a staff office for the Family Support Administration. OFM develops, directs and coordinated financial policies, budgets and controls necessary for the implementation of FSA programs. Provides technical processing of grant awards; manages procedures for handling grant disallowances and appeals.

MF.10 Organization. The Office of Financial Management is headed by an Associate Administrator who reports directly to the Administrator, Family Support Administration, and consists of: Office of the Associate Administrator, Division of Grants Management and Division of Budget and Finance.

MF. 20 Functions. A. Office of the Associate Administrator directs and coordinates all elements of the Office of Financial Management; provides guidance to all FSA program and staff office components, in accordance with HHS and other federal policy, in the ares of grants, budget and finance. Serves as the FSA liaison with the Assistant Secretary for Management and Budget on all financial matters.

B. Division of Grants Management provides centralized management and technical administration of formula, entitlement, discretionary and project grants for FSA programs. Assures that all grants awarded conform with applicable statutes, regulations and policies. Provides technical processing of research and development and of discretionary grants; negotiates grants budgets. Processes appeals and reviews allowances.

Manages the procedures for making disallowances under FSA assistance programs. Provides technical assistance and guidance to FSA components on Federal/State financial matters. Develops proposals for improving the efficiency in awarding grants and coordinating financial operations among FSA headquarters and regional components; establishes priorities and develops procedures for financial monitoring review activities for FSA grant programs. Develops FSA regulations, instructions and procedures for the administration of discretionary grants, formula grants and block grants.

C. Division of Budget and Finance in coordination with other FAS staff offices and program components, consolidates, formulates, justifies and presents budget estimates and forecasts before HHS, Office of Management and Budget and the Congress. Participates in planning, directing and coordinating financial and budgetary programs of FSA. Provides guidance to FSA components in preparing budgets, justifications and other budgetary materials. Reviews the budget as approved by Congress and recommends an FSA financial plan; makes allotments and allowances to FSA offices within the guidelines of the approved financial plan. Develops and maintains budgetary controls to ensure observance of established ceilings on both funds and personnel; maintains commitment records against allowances and certifies funds availability for FSA staff offices and certain program components as requested. Prepares requests for apportionment of appropriated funds. Prepares spending plans and status-of-funds reports for the Administrator. Develops financial operating procedures and manuals, assuring implementation within FSA of Departmental and Federal fiscal policies and procedures. Participates in program development and implementation plans where there are budgetary implications. Serves as the FSA liaison with HHS and OMB on all budgetary matters.

2. Amend Part S, Chapter S, Section S.10, Social Security Administration (Organization) by deleting paragraphs F. The Office of Family Assistance (SF) and N. The Office of Refugee Resettlement (SK).

3. Amend Chapter SF, Office of Family Assistance by deleting the Chapter in its entirety and inserting it in Part M, as Chapter MH.

4. Amend Chapter SK, Office of Refugee Resettlement by deleting the Chapter in its entirety and inserting it in Part M, as Chapter MJ.

5. Amend Part X by deleting Chapter XW, Office of Child Support Enforcement in its entirety and inserting it in Part M, as Chapter MK.

6. Amend Chapter C, Office of Community Services by deleting the Chapter in its entirety and inserting it in Part M, as Chapter ML.

Dated: September 29, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-22605 Filed 10-3-86; 8:45 am]

BILLING CODE 4190-11-M

Alcohol, Drug Abuse, and Mental Health Administration

Development Research Grants for Alcoholism Treatment Assessment Research

AGENCY: National Institute of Alcohol Abuse and Alcoholism, HHS.

ACTION: Issuance of a special program announcement for Development Research Grants (R21) on Alcoholism Treatment Assessment Research.

SUMMARY: The National Institute on Alcohol Abuse and Alcoholism (NIAAA) announces the availability of a special program announcement for Development Research Grants (R21) on Alcoholism Treatment Assessment Research. Development grants (R21) are intended to generate studies which will be research building blocks in the development of future, more intensive research studies on alcoholism treatment. Areas of interest include: client typology, therapeutic process, and treatment regimens, settings, and formats. Grants supported under this announcement will be limited to a one-year effort and a maximum of $30,000 direct costs per project in FY 1988 only. It is estimated that up to $300,000 will be available in FY 1988 to support projects under this announcement.

Receipt Date for Applications. February 1, 1987, June 1, 1987, and October 1, 1987 only.

For Further Information or a Copy of the Announcement, Contact: National Clearinghouse for Alcohol Information (NCALI), Box 2345, Rockville, Maryland 20852, Telephone (301) 468–2600.

Donald Ian Macdonald, M.D.,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 86–22578 Filed 10–3–86; 8:45 am]

BILLING CODE 4160–20–M

Family Support Administration

Use of Exxon Petroleum Violation Escrow Funds in the Low Income Home Energy Assistance Program

Correction

In FR Doc. 86–21502, beginning on page 33808, in the issue of Tuesday, September 23, 1986, make the following corrections:

On page 33809, in column two, the third and fourth lines should read: "increase the base to which the transfer cap of 10% is applicable. Under section". In the seventeeth line, after "of Pub. L. 97–377," insert "no".

BILLING CODE 1505–01–M

Food and Drug Administration

[Docket No. 86M–0305]

Bausch & Lomb Inc.; Premarket Approval of Bausch & Lomb® (Amefocon A) Oxygen Permeable Lens

Correction

In FR Doc. 86–17724, beginning on page 28435 in the issue of Thursday, August 7, 1986, make the following corrections:

1. On page 28436, in the first column, in the fourth line of the first complete paragraph, "369e(g)" should read "360e(g)".

2. Also on page 28436 in the first column, in the fifth line of the last complete paragraph, "authority of the Commissioner" should read "authority delegated to the Commissioner".

BILLING CODE 1505–01–M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting:

Minneapolis District Office, chaired by John Feldman, Distict Director. The topics to be discussed are: Talk About Prescriptions—October Campaign, Sulfiting Agents, and the Delaney Clause.

DATE: Tuesday, October 7, 1986, 11 a.m. to 12:30 p.m.

ADDRESS: Labor Center, 2002 London Rd., Duluth, MN 55812.

FOR FURTHER INFORMATION CONTACT: Don Aird, Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612–349–3906.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 1, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–22664 Filed 10–3–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86M–0388]

Barnes-Hind, Inc.; Premarket Approval of SOFT MATE® Peroxide System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Barnes-Hind, Inc., Sunnyvale, CA, for premarket approval, under the Medical Device Amendments of 1976, of the SOFT MATE® Peroxide System. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by November 3, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On April 2, 1985, Barnes-Hind, Inc., Sunnyvale, CA 94086, submitted to CDRH an application for premarket approval of the SOFT MATE® Peroxide System consisting of the SOFT MATE® Peroxide Solution, SOFT MATE® Neutralizing Solution, and SOFT MATE® Hydra-Mat® II Cleaning and Storage Unit. The SOFT MATE® Peroxide System is designed to disinfect, neutralize, and store daily and extended wear soft (hydrophilic) contact lenses.

On October 17, 1985, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On August 29, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at

CDRH—contact David M. Whipple (HFZ–460), address above.

The labeling of the SOFT MATE® Peroxide System states that the system is designed to disinfect, neutralize, and store daily and extended wear soft (hydrophilic) contact lenses. Manufacturers of soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the **Federal Register** of the approval of a new solution for use with an approved soft contact lens, the manufacturer of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 3, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: September 26, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–22512 Filed 10–3–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86–M–0389]

Thompson-CGR Medical Corp.; Premarket Approval of Magniscan 5000 (Nuclear Magnetic Resonance Device)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Thomson-CGR Medical Corp., Columbia, MD, for premarket approval, under the Medical Device Amendments of 1976, of the Magniscan 5000. After reviewing the recommendation of the Radiologic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by November 3, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert A. Phillips, Center for Devices and Radiological Health (HFZ–430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7514.

SUPPLEMENTARY INFORMATION: On November 26, 1985, Thomson-CGR Medical Corp., Columbia, MD 21046, submitted to CDRH an application for premarket approval of the Magniscan 5000. The device is a nuclear magnetic resonance device with multi-slice operation and a 0.5 tesla (T) superconducting magnet operating at 0.5T. The Magniscan 5000 is indicated for use as a diagnostic imaging device that produces transverse, sagittal, and coronal images that display the internal structure of the head or body. The images produced by the Magniscan 5000 reflect the spatial distribution of proton (hydrogen nuclei) exhibiting magnetic resonance. The nuclear magnetic resonance properties that determine image appearance are proton density, spin-lattice relaxation time (T1), spin-spin relaxation time (T2), and flow. When interpreted by a trained physician, these images provide information that can be useful in the determination of a diagnosis. All other uses of the Magniscan 5000 remain investigational.

On June 9, 1986, the Radiologic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On August 29, 1986, FDA approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Robert A. Phillips (HFZ–430), address above.

Opportunity For Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CHRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitoner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 3, 1986, file with the

Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: September 26, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–22513 Filed 10–3–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86M–0343]

Pacesetter Systems, Inc.; Premarket Approval of Model 674 Pulse Generator and Model 600 AV Programmer

Correction

In FR Doc. 86–20112, appearing on page 31984, in the issue of Monday, September 8, 1986, the subject heading should read as set forth above.

BILLING CODE 1505–01–M

Health Care Financing Administration

[ORD–056–N]

Medicare and Medicaid Programs; Cooperative Agreements and Grants; Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces that HCFA is revising the next closing date, which is November 3, 1986, for the receipt of cooperative agreement and grant applications as published in the **Federal Register** on January 30, 1985 (50 FR 4480). The November 3, 1986 closing date for waiver-only applications and applications requesting discretionary funds is being changed to December 15, 1986.

FOR FURTHER INFORMATION CONTACT: Michael Spodnik, Health Care Financing Administration, Office of Research and Demonstrations, Office of Operations Support, 2–D–6 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187 (301) 594–3825.

SUPPLEMENTARY INFORMATION: HCFA is in the process of amending the descriptions of current funding priorities to reflect the major research and demonstration initiatives of HCFA and the Department through an amendment to the **Federal Register** document published on January 30, 1985 (50 FR 4480). The notice announcing the amendment will be published shortly in the **Federal Register.** We are postponing the closing date for the receipt of applications for research and demonstration cooperative agreements and grants for Federal fiscal year 1987 until December 15, 1986 to give applicants sufficient time to review the revised statement of HCFA funding priorities. This will also permit HCFA to conduct a national technical assistance conference on November 14, 1986 for interested applicants. Particulars about the technical assistance conference are available upon request to the above HCFA contact. There will also be a direct invitational mailing to potential participants concerning the conference.

(Catalog of Federal Domestic Assistance Program No. 13766, Health Financing Research, Demonstrations and Experiments)

Dated: October 2, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 86–22751 Filed 10–3–86; 10:32 am]

BILLING CODE 4120–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Establishment of the Atchafalaya National Wildlife Refuge; Iberville and St. Martin Parishes, LA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of establishment of the Atchafalaya National Wildlife Refuge.

SUMMARY: This Notice advises the public that approximately 15,255 acres of land and water in Iberville and St. Martin Parishes, Louisiana, constitute the Atchafalaya National Wildlife Refuge. These lands will be protected and administered in accordance with the Congressional Acts, Treaties, and Executive Orders that provide the legal basis for operation of units of the National Wildlife Refuge System.

EFFECTIVE DATE: October 6, 1986.

FOR FURTHER INFORMATION CONTACT: Sam O. Drake Jr., Refuge Supervisor, District II, Office of Refuges and Wildlife, U.S. Fish and Wildlife Service, 75 Spring Street, SE., Atlanta, Georgia 30303. Telephone (404) 331–3538 or FTS 242–3538.

SUPPLEMENTARY INFORMATION: The Act to establish the Atchafalaya National Wildlife Refuge was enacted by Congress on October 26, 1984 (Pub. L. 98–548). As directed by the Act, the Secretary published a notice in the **Federal Register** on April 24, 1985 (Vol. 50, No. 79), advising the public that the detailed map depicting the lands and water designated as appropriate for the refuge was available for public inspection. Additionally, Title III, section 303(c) of the Act directs the Secretary to establish the Atchafalaya National Wildlife Refuge by **Federal Register** notice whenever sufficient property has been acquired that can be effectively managed as a refuge.

Notice is hereby given that, pursuant to the above Act, sufficient property, approximately 15,255 acres, has been acquired from within the selection area to constitute lands and water that can be effectively managed as a unit of the National Wildlife Refuge System. Therefore, the Atchafalaya National Wildlife Refuge is established effective on the date of this Notice.

September 19, 1986.

James W. Pulliam, Jr.,

Regional Director.

[FR Doc. 86–22185 Filed 10–3–86; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[CA–940–06–4520–12; C–8–86]

California; Filing of Plat of Survey

September 23, 1986.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Claveras County

T. 5 N., R 14 E.

2. This supplemental plat of section 5, Township 5 North, Range 14 East, Mount Diablo Meridian, California, showing amended lottings created by the cancellation of the mineral segregation survey of the Rainbow lode, Fallen Pine lode, and the White Elephant lode was accepted September 10, 1986.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is

available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86–22583 Filed 10–3–86; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–06–4520–12]
[C–17–85]

California; Filing of Plat of Survey

September 23, 1986.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Mono County

T. 7 N., R 25 E.

2. This supplemental plat of a subdivision of original lots 12, 13, 14, and 15, section 33, Township 7 North, Range 25 East, Mount Diablo Meridian, California, was accepted September 12, 1986.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management and the U.S. Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86–22581 Filed 10–3–86; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–06–4520–12; Group 872]

California; Filing of Plat of Survey

September 23, 1986.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Amador County

T. 7 N., R. 11 E.

2. This plat representing the dependent resurvey of a portion of the north boundary and subdivisional lines, and the survey of the subdivision of sections 3, 4, 10, 11, 12, 13, 15, 22, and 28, Township 7 North, Range 11 East, Mount Diablo Meridian, California, under Group No. 872, California, was accepted September 10, 1986.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86–22580 Filed 10–3–86; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–06–4520–12; Group 692]

California; Filing of Plat of Survey

September 23, 1986.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Calaveras County

T. 6 N., R. 14 E.

2. This plat representing the dependent resurvey of the First Standard Parallel North along a portion of the south boundary, a portion of the east, west, and north boundaries, a portion of the subdivisional lines, certain boundaries of mineral surveys and mineral segregation surveys, and the survey of the subdivision of sections 1, 3, 9, 10, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, Township 6 North Range 14 East, Mount Diablo Meridian, California, under Group No. 692, California, was accepted September 4, 1986.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management and the U.S. Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86–22582 Filed 10–3–86; 8:45 am]

BILLING CODE 4310–40–M

[WY–040–06–4111–09]

Rock Springs District, Uinta County, WY

AGENCIES: Bureau of Land Management, Department of the Interior and U.S. Forest Service, Department of Agriculture.

ACTION: Notice of Intent to prepare an environmental impact statement for proposed oil and gas field development in the Hickey Mountain-Table Mountain area of Uinta County, Wyoming.

SUMMARY: The Bureau of Land Management, in cooperation with the Forest Service, Department of Agriculture, is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for the proposed development of an oil and gas field in the Hickey Mountain-Table Mountain area of Uinta County in southwestern Wyoming. This area contains public land administered by the Rock Springs District, Bureau of Land Management, and land within the Wasatch-Cache National Forest.

DATES: Preparation of the EIS began with public scoping for an environmental assessment in October and November of 1985. The determination that an EIS was necessary was made on September 12, 1986. A draft EIS will be available for public review and comment in November 1986.

ADDRESSES: Copies of the draft EIS will be mailed to all known interested parties when available. Information and materials providing a description of the project are available for review at the following locations:

Bureau of Land Management, Rock Springs District Office, Highway 191 North, P.O. Box 1869, Rock Springs, Wyoming 82902–1869

Forest Supervisors Office, Wasatch-Cache National Forest, 125 S. State Street, Suite 8226, Salt Lake City, Utah 84138

Mountain View Ranger District, Wasatch-Cache National Forest, P.O. Box 129, Mountain View, Wyoming 82339

FOR FURTHER INFORMATION CONTACT: For further information, or if you would like to be placed on the draft EIS mailing list, contact Wally Mierzejewski, team leader, at the Bureau of Land Management, address listed above or phone (307) 382–5350.

SUPPLEMENTARY INFORMATION: The public was provided a notice of public scoping statement for this proposal in the Federal Register on October 21, 1985. That notice requested written comments to assist in determining the scope of an environmental assessment. The notice also stated, "should an EIS be prepared, additional scoping would not be initiated." No additional scoping comments are requested.

The project proposal calls for construction of access roads and well pads, drilling and completion of oil and gas wells, repressurization wells and wastewater injection wells, and construction and use of hydrocarbon separation plants. Approval of applications for permit to drill, sundry notices, rights-of-way, or special use permits would be required for specific project components.

The alternatives to be analyzed in the EIS include variations in collector access road locations, product transportation methods, and processing facilities. A no action alternative will also be considered. The cumulative impacts of this development proposal along with existing and anticipated land uses will be analyzed.

Issues to be analyzed in the EIS include potential impacts to big game particularly elk, visual resources, sensitive soils and watershed, existing land uses, vegetation, fisheries, socioeconomic resources, cultural and paleontological resources, geology, and human health and safety.

L. Christian Vosler,

Acting State Director.

[FR Doc. 86–22567 Filed 10–3–86; 8:45 am]

BILLING CODE 4310–22–M

National Park Service

Mining Plan of Operations

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et. seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Angst Corporation has filed a plan of operations in support of proposed mining on lands embracing the Gold Bar patented mining claim group, M.S. 2321 and 2604, within Death Valley National Monument. The plans are available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, California.

Dated: September 5, 1986.

Edwin L. Rothfuss,

Superintendent, Death Valley National Monument.

FR Doc. 86–22614 Filed 10–3–86; 8:45 am

BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

[OSM–EIS–22]

Availability of Final Petition Evaluation Document/Environmental Impact Statement on the Rock Creek Watershed, TN

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of Availability of final petition evaluation document/environmental impact statement.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) is making available a final petition evaluation document/environmental impact statement (PED/EIS) on the Rock Creek watershed in Tennessee. The PED/EIS has been prepared to assist the Secretary of the Interior in making a decision on the petition to designate certain lands as unsuitable for surface coal mining operations in the Rock Creek watershed in Tennessee.

ADDRESS: Copies of the final EIS may be obtained from Willis Gainer, Chief, Southern Branch, Division of Tennessee Permitting, OSMRE, 530 Gay Street, SW., Suite 500, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Willis Gainer, at the location given under **"ADDRESS"**, telephone: (615) 673–4348).

SUPPLEMENTARY INFORMATION: On October 10, 1984, the Legal Environmental Assistance Foundation filed a petition to designate certain lands as unsuitable for surface coal mining operations in the Rock Creek watershed in Tennessee. OSMRE determined the petition to be administratively complete on December 7, 1984. On March 21, 1986, OSMRE made available the draft PED/EIS for a 60 day public review and comment period.

The Final PED/EIS was prepared by OSMRE in accordance with section 522(d) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). It analyses five alternatives which range from designation of the entire petition area as unsuitable for all surface coal mining operations to not designating any of the petition area as unsuitable for surface coal mining operations.

In preparing the final PED/EIS, OSMRE has revised the draft PED/EIS in response to comments received during the public comment period. These comments and OSMRE's responses to them are included in the final PED/EIS.

No decision will be made on the petition by the Secretary of the Interior until at least 30 days from the time the PED/EIS is made available to the public. Notice of such a decision by the Secretary of the Interior will be made available to the public at that time.

Dated: September 26, 1986.

Len Richeson,

Assistant Director, Program Operations.

[FR Doc. 86–22533 Filed 10–3–86; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 23]

Middle Atlantic Conference Petition for Assumption of Steel Carriers Tariff Association, Inc., Functions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of clarification of prior decision.

SUMMARY: By petition filed July 30, 1984, Middle Atlantic Conference (MAC), a motor carrier rate bureau, seeks reconsideration of the Commission's June 27, 1984, decision partially approving proposed amendments to MAC's pending rate agreement that would accommodate a proposed merger with Steel Carriers Tariff Association, Inc. (STA), also a motor carrier rate bureau. Alternatively, MAC requests a clarification of that decision. *See Middle Atlantic Conference—Assumption of Steel Carriers Tariff Association, Inc., Functions*, 49 FR 27643 (July 5, 1984). That decision specifically disapproved two amendments that would broaden MAC's territorial scope for collective ratemaking activities with respect to effective STA tariffs. We will clarify our prior decision to specifically disapprove the amendments to the extent the territorial scope of the amendments exceeds the approved territorial scope of STA's rate bureau agreement.

EFFECTIVE DATE: This clarification is effective October 6, 1986.

FOR FURTHER INFORMATION CONTACT:
Robert G. Rothstein (202) 275–7912
or
Louis E. Gitomer (202) 275–7691

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's full decision. A copy may be purchased from T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423; or call toll-free (800) 424–5403, or (202) 275–7428 in the Washington, DC, metropolitan area.

Energy and Environmental Statement

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10321 and 10706.

Decided: September 26, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86–22530 Filed 10–3–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 85–9]

Bernard Leroy Langston, III, M.D.; Grant of Registration

Correction

In FR Doc. 86–21771, beginning on page 34268, in the issue of Friday, September 26, 1986, make the following correction:

On page 34269, in the first column, the third line should be removed and "application for renewal" should be removed from the fourth line.

BILLING CODE 1505–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

4,4'-Methylenedianiline Negotiated Rulemaking Advisory Committee; Relocation of Meetings

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of relocation of meetings, correction.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given of the relocations of three Committee meetings to be held from October 1986 through January 1987. It is anticipated that the meetings will last from one to three days but this may vary as the work of the Committee proceeds. For the purpose of this notice only the beginning dates will be given. Additionally, a technical correction is made to the earlier notice, dated August 4, 1986 (51 FR 27919).

DATES: The meetings are scheduled to begin on:

October 7, 1986 at 9:30 a.m. in the Quality Inn Capitol Hill Hotel, 415 New Jersey Avenue, NW, Washington, DC 20001, (202) 638–1616;

November 18, 1986 at 9:30 a.m. in the Quality Inn Capitol Hill Hotel, indicated above;

December 9, 1986, at 9:30 a.m. at the Phoenix Park Hotel, 520 North Capitol Street, NW, Washington, DC 20001, (202) 638–6900; and

January 13, 1987 at 9:30 a.m. in the Hyatt Regency Washington, 400 New Jersey Avenue, NW, Washington, DC 20001, (202) 737–1234.

Status: These meetings will be open to the public.

ADDRESS: Submissions presented in response to this notice should be sent in quadruplicate to the Docket Officer, Docket No. H–040, Room N3670, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Washington, DC 20210; (202) 523–7894. Written comments received, as well as other information in Docket H–040, will be available for inspection and copying at this address, Monday through Friday, 8:15 a.m. to 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3637, 200 Constitution Avenue, NW, Washington, DC 20210; Telephone (202) 523–8615.

SUPPLEMENTARY INFORMATION: On October 22, 1985, OSHA announced its intent to make use of negotiated rulemaking in developing a proposed standard for MDA (50 FR 42790–42793). The notice also set forth the basic concepts of negotiated rulemaking and outlined the participant selection criteria which OSHA expected to use in establishing an MDA Advisory Committee.

OSHA established the committee in accordance with the Federal Advisory Committee Act (FACA) and section 7(b) of the Occupational Safety and Health Act (OSH Act) to mediate issues associated with the development of a Notice of Proposed Rulemaking on MDA.

Appointees to the committee include representatives from labor, industry, health and safety groups, and government agencies.

Members of the public wishing to submit written statements to the Committee that are germane to the agenda may do so. Such statements should be in reproducible form and should be submitted to the OSHA Division of Consumer Affairs at least 5 days before the meeting. In addition, the Mediator or Chairman of the Committee has the authority to decide to what extent oral presentations by members of the public may be permitted at the meeting.

Minutes of these meetings will be available for public inspection at the OSHA Docket Office, U.S. Department of Labor, Room N–3670, 200 Constitution Ave., NW, Washington, DC 20210; Telephone (202) 523–7894.

On August 4th, 1986, a notice was published in the **Federal Register** indicating the schedule for six meetings of the OSHA MDA "Mediated" Rulemaking Advisory Committee. While the committee was chartered as the "Negotiated" Rulemaking Advisory Committee, OSHA has decided to change the name of the Committee to "Mediated" inasmuch as this term better describes the process. A new charter is being prepared which reflects this change but will not take effect until the expiration of the current charter on November 7th, 1986. Federal Advisory Committee Act regulations require that notices of meetings contain the exact name of the committee as chartered. Therefore, the earlier notice, even though adequate for the post-October meetings, must nonetheless be corrected to comply with FACA regulations.

In light of this discussion, the notice of August 4, 1986 (51 FR 27919) is hereby corrected by adding the following sentences at the end of the paragraph in the center column which begins with the words "OSHA established" and ends with the words "on MDA":

Although originally chartered as the "4,4'-Methylenedianiline Negotiated Rulemaking Advisory Committee," OSHA is taking steps to change the official name of the committee to the "4,4'-Methylenedianiline Mediated Rulemaking Advisory Committee." The reason for this change is that the term 'mediated' better describes the process.

Signed in Washington, DC, this 1st day of October 1986.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 86–22617 Filed 10–3–86; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Available and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments..

SUMMARY: The National Archives and Records Administration (NARA) publishes a notice at least monthly of all agency requests for records disposition authority (records schedules) which include records being proposed for disposal or which reduce the records retention period for records already authorized for disposal. The first notice was published on April 1, 1985. Records schedules identify records of continuing value for eventual preservation in the National Archives of the United States and authorize agencies to dispose of records of temporary value. NARA invites public comment on proposed records disposals as required by 44 U.S.C. 3303a(a).

DATE: Comments must be received in writing on or before December 5, 1986.

ADDRESS: Address comments and requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requestors must cite the control number assigned to each schedule when requesting a copy. The control number appears in parenthesis immediately after the title of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. government agencies create billions of records in the form of paper, film, magnetic tape, and other media. In order to control the accumulation of records, Federal agencies prepare records schedules which specify when the agency no longer needs them for current business and what happens to the records after the expiration of this period. Destruction of the records requires the approval of the Archivist of the United States, which is based on a thorough study of their potential value for future use. A few schedules are comprehensive; they list all the records of an agency or one of its major subdivisions. Most schedules cover only one office, or one program, or a few series of records, and many are updates of previously approved shedules.

This public notice identifies the Federal agencies and their appropriate subdivisions requesting disposition authority, includes a control number assigned to each schedule, and briefly identifies the records scheduled for disposal. The complete records schedule contains additional information about the records and their disposition. Additional information about the disposition process will be furnished with each copy of a records schedule requested.

Schedules Pending Approval

1. *Department of the Air Force,* Directorate of Administration (N1–AFU–86–69). Housing reservation forms.

2. *Department of the Army,* Records Management Operations Office (N1–156–86–1). Housekeeping records of Army ordnance plants (schedules provides for permanent retention of mission-related records)

3. *Department of Agriculture,* Forest Service, Office of Information (N1–95–86–7). Records of the Chief of Service, including copies of court cases, press releases, copies of interagency agreements, calendar of daily activities and facilitative correspondence.

4. *Department of the Interior,* Bureau of Land Management (N1–49–86–2). Paper copies of serial registers and logs that have been microfilmed for archival retention.

5. *Department of Commerce,* Office of the Secretary, Office of Technical Service (NC1–40–86–3). Miscellaneous records of the Industrial Research and Development Division, 1945–49.

6. *Library of Congress,* Central Services Division, Copyright Office, Licensing Division (N1–297–86–1). Routine records relating to licensing and accounting of Juke boxes and Cable Systems.

7. *Administrative Office of the U.S. Courts,* Criminal Justice Act Division (NC1–116–85–4). Records relating to the administration of the Criminal Justice Act program.

8. *Environmental Protection Agency,* Office of International Activities (NC1–412–85–16). Comprehensive schedule covering records relating to EPA's international programs and activities and agency participation in international bodies, conferences, and negotiations.

9. *Environmental Protection Agency,* Facilities and Support Services Division (NC1–412–85–26). Comprehensive schedule relating to facilities and support services for the agency.

10. *Office of the Secretary of Defense,* Records Management Division (N1–330–86–3). Internal Control Program Records.

11. *Department of State,* Personnel Office of Management, Regulations and Research Division (N1–59–86–8). Revision in destruction period for communications relating to Foreign Service employees conduct, suitability, and discipline.

12. *Tennessee Valley Authority,* Office of Corporate Services, Division of Medical Services (N1–142–86–13). Emergency Response Unit Weekly Inspection Sheet, used to ensure the proper equipage of ambulances at project sites.

13. *Department of Transportation,* Federal Aviation Administration (N1–237–86–5). Inventory Control Records.

14. *Department of Transportation,* Federal Aviation Administration (N1–237–86–6). Aeromedical certification records.

15 *Department of the Treasury,* Bureau of Engraving and Printing (N1–318–84–1 and 2). Final receipts of perfect deliveries of material other than National Bank Currency, ca. 1924–1957 and Treasury Department Circulars.

Dated: September 25, 1986.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 86–22542 Filed 10–3–86; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL ENDOWMENT ON THE ARTS AND HUMANITIES

Joint Collaboration Initiative Sections of the Design Arts Advisory Panel and Visual Arts Advisory Panel to the National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Joint Collaboration Initiative Sections of the Design Arts Advisory Panel and the Visual Arts Advisory Panel to the National Council on the Arts will be held on October 21, 1986, from 9:00 a.m.—5:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee

Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

September 30, 1986.

[FR Doc. 86–22584 Filed 10–3–86; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel to the National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Opera-Musical Theater New American Works Prescreening) to the National Council on the Arts will be held on October 28–30, 1986, from 9:00 a.m.–5:30 p.m. in room M–14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

September 30, 1986.

[FR Doc. 86–22585 Filed 10–3–86; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–187]

The Northrop Corporation Triga Reactor (Northrop Corp.); Order Terminating Facility License

By application dated January 14, 1985, as supplemented, Northrop Corporation (the licensee) requested the Nuclear Regulatory Commission (the Commission) for authorization to dispose of the component parts of the research reactor and to terminate Facility Operating License No. R–90. A Notice of "Proposed Issuance of Order Authroizing Dispositionof Component Parts and Terminating Facility License", was published in the **Federal Register** on May 22, 1985, at 50 FR 21153. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The reactor was shut down December 21, 1984 and all fuel rods have been removed from the core and shipped to other research reactors for continued use. The reactor facility has been completely dismantled and all requirements, particularly those relevant to residual radioactivity and the packaging and shipping of fuel and radioactive material, have been met. Therefore, pursuant to the application filed by Northrop Corporation, located in Hawthorne, Los Angeles County, California, Facility License No. R–90 is terminated as of the date of this Order.

For further details with respect to this action see (1) the application for termination of facility license, dated January 14, 1985, as supplemented, (2) the Commission's Safety Evaluation related to the termination of the license, (3) the Environmental Assessment, and (4) the Notice of Proposed Issuance of Order Authorizing Disposition of Component Parts and Terminating Facility License published in the **Federal Register** on May 22, 1985 (50 FR 21153). Each of these items is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. Copies of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing-B.

Dated at Bethesda, Maryland, this 29th day of July 1986.

For the Nuclear Regulatory Commission

Frank J. Miraglia,

Director, Division of PWR Licensing-B, Office of Nuclear Reactor Regulation.

[FR Doc. 86–22601 Filed 10–3–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–312]

Sacramento Municipal Utility District; Rancho Seco Nuclear Generating Station;

Notice is hereby given that, by a letter dated August 26, 1986, the Honorable Tom Bradley, Mayor of Los Angeles requested that the Nuclear Regulatory Commission conduct public hearings and permanently close the Rancho Seco Nuclear Generating Station. Bases for the action were alleged to be that the facility (1) is the twin of the "doomed" TMI reactor, (2) has had a troubled operating record, (3) has suffered nearly one hundred unplanned outages including the worst overcooling incident in industry history in 1978 and two severe overcooling incidents in 1985, and (4) has been plagued by poor management, inadequate training and sloppy maintenance.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and, accordingly, appropriate action will be taken on the request within a reasonable time. A copy of the Petition is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Local Public Document Room for the Rancho Seco facility located at the Sacramento City—County Library, 828 I Street, Sacramento, California 95814.

Dated at Bethesda, Maryland, this 26th day of September, 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director Office of Inspection and Enforcement.

[FR Doc. 86–22598 Filed 10–3–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50–447]

General Electric Co., Standard Safety Analysis Report (Gessar II BWR/6 Nuclear Island Design) Issuance of Amendment No. 2 to Final Design Approval No. FDA–1

Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC) has issued Amendment No. 2 to FDA–1, the Final Design Approval for the BWR/6 Nuclear Island design described in the General Electric Standard Ssfety Analysis Report GESSAR II. FDA–1, which was issued by the NRC staff on July 27, 1983 (48 FR 35050), permitted the GESSAR II design to be referenced in utility applications for operating licensee for those plants that referenced the Preliminary Design Approval for the GESSAR–238 Nuclear Island design (PDA–1) at the construction permit stage. Amendment No. 1 to FDA–1 which was issued on August 9, 1985, removed the constraint on the forward referenceability of the GESSAR II design and permitted it to be referenced in new construction permit (CP) and operating license (OL) application as provided for by paragraph B.3.b(1) of the Commission's

"Policy Statement on Severe Reactor Accidents Regarding Future Designs and Existing Plants" (50 FR 32138). Paragraph B.3.b(1), however, prohibits the issuance of a CP or OL to an application that references the design until successful completion of the severe accidents review. Amendment No. 2 to FDA–1 documents the completion of the staff's and the ACR's review of GESSAR II for the severe accident concerns described in paragraph B.2. of the Commission's policy statement.

GESSAR II contains final safety:-related design information for the nuclear island portion of a BWR/6 boiling water reactor type nuclear power plant which includes the nuclear steam supply system (NSSS), engineered safety feature systems, reactor building (including shield building and Mark III containment), auxiliary building, control building, radwaste building, fuel handling building, and related systems and structures. The BWR/6 Nuclear Island reference design is for a facility which would operate at a core thermal power level of 3730 megawatts (1269 megawatts electrical, nominal net).

The GESSAR II design was reviewed by the NRC staff pursuant to Appendix O to 10 CFR Part 50. The Safety Evaluation Report (SER), NUREG–0979, dated April 1983 and Supplements 1 through 5 thereof dated July 1983, November 1984, January 1985, July 1985, and May 1986, respectively, document the results of the NRC staff's review and evaluation of the GESSAR II design including Amendments 1 through 21 thereto. The SER also addresses the comments of the Advisory Committee on Reactor Safeguard, (ACRS) as reflected in its reports to the Commision dated June 15, 1983, and January 14, 1986. A copy of the ACR's reports are included as Appendix F to SER Supplement 1 and Appendix H to SER supplement 5.

Based on its review, the NRC staff has concluded, subject to the conditions set forth in Amendment 2 to FDA–1, that the information provided in GESSAR II complies with the requirements of 10 CFR Part 50, Appendix 0, and with paragraphs B.2 and B.3.b(1) of the Commission's "Policy Statement on Severe Reactor Accidents Regarding Future Designs of Existing Plants," and is acceptable for incorporation by refernce in utility applications for construction permits and operating licenses. Amendment 2 allows a CP or OL to be issued to applicants who reference the GESSAR II design without further staff or ACRS review of those portions of the design covered by FDA–1.

Issuance of Amendment No. 2 to FDA–1 does not constitute a commitment to issue a permit or license, or in any way affect the authority of the Commission, Atomic Safety and Licensing Appeal Board, Atomic Safety and Licensing Boards and other presiding officers in any proceeding under Subpart G of 10 CFR Part 2. This action only approves the design of a facility for use for reference purposes in applications for construction permits and operating licenses for nuclear power plants. It does not authorize the operation of any nuclear power plant or any other facility. The environmental impacts associated with any facility proposed to be operated utilizing the approved reference design will be considered in accordance with the Commission's regulations in 10 CFR Part 51.

The final Design Approval as amended is effective as of its date of issuance and shall expire on September 22, 1991, unless extended by the NRC staff. The expiration of the Final Design Approval on September 22, 1991, shall not affect its use in licensing applications docketed prior to such date.

For further details with respect to this action, see (1) Amendment No. 2 to FDA–1 and Attachment A thereto; (2) the NRC staff's Safety Evaluation Report, NUREG–0979, dated April 1983 and Supplements 1 thorugh 5 thereto, dated July 1983, November 1984, January 1985, July 1985, and May 1986, respectively; (3) the reports of the Advisory Committee on Reactor Safeguards dated June 15, 1983 and January 14, 1986; (4) the General Electric Standard Safety Analysis Report GESSAR II and Amendments 1 through 21 thereto; and (5) the Commission's "Policy Statement on Severe Reactor Accidents regarding Future Design and Existing Plants." These documents are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW, Washington, DC 20555. A copy of Amendment No. 2 to FDA–1 and Attachment A thereto may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of BWR Licensing. Copies of the Safety Evaluation Report and Supplements (NUREG–0979) may be purchased through the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 200313–7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 22nd day of September 1986.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Division of BWR Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 22599 Filed 10–3–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–461]

Illinois Power Company et al; Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission or NRC), has issued Facility Operating License No. NPF–55 to the licensees which authorizes operation of the Clinton Nuclear Power Station, Unit No. 1 (the facility), at reactor core power levels not in excess of 2894 megawatts thermal (100 percent rated power) in accordance with the provisions of the License, the Technical Specifications and the Environmental Protection Plan with a condition currently limiting operation to five percent of full power (144.7 megawatts thermal). Authorization to operate beyond five percent of full power will require specific Commission approval.

The Clinton Nuclear Power Station, Unit No. 1 is a boiling water nuclear reactor located in Harp Township, DeWitt County, approximately six miles east of the city of Clinton in east-central Illinois. The license is effective as of the date of issuance.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I which are set forth in the License. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on September 29, 1980 (45 FR 64307).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) Facility Operating License No. NPF–55, with Technical Specifications (NUREG–1203) and the Environmental Protection Plan: (2) the report of the Advisory Committee on Reactor Safeguards, dated March 9, 1982: (3) the Commission's Safety

Evaluation Report, dated February 1982 (NUREG–0853), and Supplements 1 through 7: (4) the Final Safety Analysis Report and Amendments thereto; (5) the Environmental Report and supplements thereto: and (6) the Final Environmental Statement dated May 1982 (NUREG–0854).

These items are available for inspection at the Commission's Public Document Room located at 1717 H Street, NW., Washington, DC 20555 and in the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727. A copy of Facility Operating License NPF–55 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of BWR Licensing. Copies of the Safety Evaluation Report and Supplements 1 through 7 (NUREG–0853) and the Final Environmental Statement (NUREG–0854) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, or may be ordered by calling (202) 275–2060 or by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. All orders should clearly identify the NRC publication number and the requestor's GPO deposit account, or VISA or Mastercard number and expiration date.

Dated at Bethesda, Maryland, this 29th day of September 1986.

Walter R. Butler,

Director, BWR Project Directorate No. 4, Division of BWR Licensing.

[FR Doc. 86–22600 Filed 10–3–86; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

September 30, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 therunder, for unlisted trading privileges in the following stock:

Snyder Oil Partners (Delarware) Units of Limited Partnership Interests (File No. 7–9249).

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 22, 1986 written data, views and arguments concerning the above-referenced applications. Pesons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenace of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR. Doc. 86–22602 Filed 10–3–86; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 86–9–89]

Commuter Air Carrier; Fitness Determination of; Air Cape, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of commuter air carrier fitness determination, order to show cause.

SUMMARY: The Department of Transportation is proposing to find that Air Cape, Inc., is fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act.

Response: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Special Authorities Division, P–47, Department of Transportation, 400 7th Street, SW., Room 6420, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than October 28, 1986.

FOR FURTHER INFORMATION CONTACT: Kathy A. Lusby, Special Authorities Division, Department of Transportation 400 7th Street, SW., Washington, DC 20590 (202) 366–2337.

Dated: September 29, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86–22593 Filed 10–3–86; 8:45 am]

BILLING CODE 4910–62–M

Docket 44380; Order 86–9–92]

Institution of Seattle/Portland-Japan Service Review Case

AGENCY: Department of Transportation.

ACTION: Institution of Seattle/Portland-Japan service review case.

SUMMARY: The Department has decided to institute the *Seattle/Portland-Japan Review Case* to examine whether a carrier should be chosen to replace United Air Lines on the Seattle/Portland-Tokyo/Osaka route. The proceeding will be set for oral evidentiary hearing before an Administrative Law Judge of the Department.

DATE: Certificate applications (which will be assigned separate docket numbers), motions to consolidate, petitions for leave to intervene, and petitions for reconsideration shall be filed by October 24, 1986.

Answers shall be filed by October 31, 1986.

ADDRESSES: Applications, motions, petitions, and answers should also be filed in Docket 44380, and addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., room 4107, Washington, DC 20590, and should be served on all parties in Docket 44380.

Dated: September 30, 1986.

Matthew Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86–22592 Filed 10–3–86; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

Advisory Circular: Procedures for Conducting Fuel System Hot Weather Operations Tests

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft advisory circular (AC) availability and request for comments..

SUMMARY: This AC provides information and guidance concerning an acceptable means of showing compliance with Part 3 of the Civil Air Regulations (CAR) and Part 23 of the Federal Aviation Regulations (FAR) applicable to procedures for conducting fuel system

hot weather operation tests in small airplanes.

DATE: Commenters must identify File AC 23.961–X; Subject: Procedures for Conducting Fuel System Hot Weather Operation Tests, and comments must be received on or before December 5, 1986.

ADDRESS: Send all comments on the proposed draft AC to: Federal Aviation Administration, ATTN: Standards Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Richard F. Yotter, Aerospace Engineer, Standards Office (ACE–110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106: commercial telephone (816) 374–6941, or FTS 758–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed draft AC by writing to: Federal Aviation Administration, Aircraft Certification Division, Standards Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited: Interested parties are invited to submit comments on the proposed draft AC. The proposed draft AC and comments received may be inspected at the Standards Office (ACE–110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Background: Section 23.961 (CAR 3.438) of the Federal Aviation Regulations (FAR) requires that each fuel system conducive to vapor formation must be free from vapor lock when using fuel at a temperature of 110°F under critical operating conditions. An AC has been developed to provide at least one method of showing compliance with this regulation. The AC will identify the method of heating the fuel, the various fuels available, and the critical flight conditions to be tested.

Issued in Kansas City, Missouri, September 25, 1986.

Barry D. Clements,

Manager Aircraft Certification Division.

[FR Doc. 86–22509 Filed 10–3–86; 8:45 am]

BILLING CODE 4910–13–M

Noise Exposure Map; Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Huntsville-Madison County Airport Authority (HMCAA) for the Huntsville-Madison County Airport (HMCA), under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for the MHCA Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved on or before March 11, 1987.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is September 12, 1986. The public comment period ends November 11, 1986.

FOR FURTHER INFORMATION CONTACT: Elton E. Jay, Civil Engineer, Jackson Airports District Office, Post Office Box 6111, Jackson, Mississippi 39208; telephone no. (601) 965–4628.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the HMCA are in compliance with applicable requirements of Part 150, effective September 12, 1986. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before March 11, 1987. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations, Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The HMCAA submitted to the FAA on May 5, 1986, noise exposure maps, descriptions and other documentation which were produced during an airport noise compatibility planning study from July 1983 to May 1985. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and the surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA completed its review of the noise exposure maps and related descriptions submitted by the HMCAA. The specific maps under consideration are "Noise Contours— Base Year 1983 Operations" and "Noise Contours—1990 Operations—Noise Abatement." The FAA has determined that these maps for the HMCA are in compliance with applicable requirements. This determination is effective on September 12, 1986. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedure contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land-use control and planning responsibilities of local government. The local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying or noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator

which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA formally received the noise compatibility program for the HMCA, also effective on September 12, 1986. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before March 11, 1987.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land-use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps and the proposed noise compatibility program are available for examination of the following locations:

Federal Aviation Administration, 800 Independence Avenue SW., Room 617, Washington, DC

Airports District Office, FAA Building, Jackson Municipal Airport, Jackson, Mississippi

Mr. J. E. Mitchell, Jr., Executive Director, Huntsville-Madison County Airport, Huntsville, Alabama

Questions may be directed to the individual named above under the heading, **"FOR FURTHER INFORMATION CONTACT."**

Issued in Jackson, Mississippi, September 12, 1986.

Newton L. Taylor,

Manager, Airports District Office.

[FR Doc. 86-22510 Filed 10-3-86; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[BS-Ap-No. 2601]

Burlington Northern Railroad Co., Norfolk and Western Railway Co. and Chillicothe Southern Railroad Co.; Public Hearing

The Burlington Northern Railroad Company, Norfolk and Western Railway Company and the Chillicothe Southern Railroad Company have petitoned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance of the traffic control signal system from Brookfield, Missouri, to Maxwell, Missouri, on the Burlington Northern Railroad, including the modification of Summer interlocking where the Chillicothe Southern Railroad crosses at grade the Burlington Northern Railroad and modification of the Norfolk and Western Railway Company Junction at Maxwell.

This proceeding is identified as FRA Block Signal application No. 2601.

After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on November 20, 1986, in the County Commission Room on the 2nd Floor of the Livingston County Courthouse in Chillicothe, Missouri.

The hearing will be an informal one, and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA reprsentative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC, on September 30, 1986.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 86-22616 Filed 10-3-86; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

[Docket No. IP86-05; Notice 2]

General Motors Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by General Motors Corporation of Warren, Michigan to be exempted from the notification and remedy requirements of the National Highway Traffic Safety Act (15 U.S.C. 1381 *et. seq.*) for an apparent noncompliance with 49 CFR 571.209, Motor Vehicle Safety Standard No. 209, *Seat Belt Assemblies.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on May 19, 1986, and an opportunity afforded for comment (51 FR 18398).

Paragraph S4.3(a) of Standard No. 209 requires that:

(1) Attachment hardware of a seat belt assembly after being subjected to the conditions specified in S5.2(a) shall be free of ferrous corrosion on significant surfaces except for permissible ferrous corrosion at peripheral edges or edges of holes on underfloor reinforcing plates and washers.

Section (c)(1) of paragraph S4.3 also requires that:

Eye bolts, shoulder bolts, or other bolts used to secure the pelvic restraint of a seat belt assembly to a motor vehicle shall withstand a force of 9,000 pounds or 4,080 kilograms when tested by the procedure specified in S5.2(c)(1).

General Motors produced approximately 7,802 vehicles between May 7 and May 10, 1985, which included the Pontiac 6000, Oldsmobile Ciera, Chevrolet Caprice, and Oldsmobile Delta 88 whose seat belt assembly attachment bolts did not meet the corrosion requirements of Standard No. 209.

General Motors indicated that an estimated 50% of the bolts which may have been improperty plated are the front inner and outer seat belt floor anchorage bolts.

General Motors performed tensile strength load tests which showed that the bolts exceeded the strength requirement of S4.3(c)(1) of Standard No. 209. Test results showed a minimum load of 12,050.35 pounds, and maximum of 14,208.63 pounds, with an average of 12,899.85 pounds.

The petition also stated that:

An examination of the bolts was also conducted at the University of Pennsylvania by Professor Charles J. McMahon, Jr. Concerning this examination, Professor

McMahon states: For our examination, we sectioned the bolts through rusted area and examined microscopically the surface profile in these regions. As was expected from the prior visual examination of the surface, in which no significant pits were observed, the rusting was superficial and did not involve any subsurface damage, such as cracking, pitting, etc. Thus, the mechanical performance of the bolts would not be affected by this surface rust. Therefore, since the strength performance of these bolts exceeds the specific requirements in Standard No. 209, it is believed that no safety concern exists.

Two comments were received on the petition, both of which opposed it. Robert F. Schlegel, P.E. brought to the agency's attention situations in which the bolts might be required to be removed such as replacement of the carpet or of the bolts themselves; in his experience, corroded bolts are difficult to remove. The Center for Auto Safety argued that the no-corrosion requirement helps to ensure that seat belt components will be able to meet significant stress loads for years after passing the initial compliance test, and that early corrosion provides a clear early warning signal of significant deterioration in the future. The comments misunderstand to some extent the purpose of the corrosion test. This is an accelerated lifetime test, simulating lifetime exposure of the bolt to corrosion producing elements. In the enclosed environment of the car where the bolts are located they are unlikely to come into contact with these elements, or at least to the extent necessary over their lifetime to duplicate the test results. Thus, test failures of the nature encountered with the bolts used by GM, do not portend significant future deterioration. Also, any potential difficulty in removing the bolts appears to be maintenance-related rather than safety-related. The tests of the petitioner indicate that the strength of the bolts has not been affected by their test failure, and that they exceed the minimum requirements of the standard by a substantial margin.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety and its petition is granted.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: September 30, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86–22536 Filed 10–3–86; 8:45 am]

BILLING CODE 4910–59–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 193
Monday, October 6, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 1, 1986.

TIME AND DATE: 10:00 a.m., Thursday, October 9, 1986.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Jimmy Mullins v. Beth-Elkhorn Corporation, & UMWA, etc., Docket No. KENT 83-268-D. (Issues include whether the administrative law judge properly concluded that the operator discriminated against Mullins by removing him from a dispatcher's job in violation of his rights as a Part 90 miner.)

Any person intending to attend this hearing who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and 2706.160(e).

TIME AND DATE: Following the oral argument.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the above mentioned item.

It was determined by a unanimous vote of Commissioners that this portion of the meeting be closed.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86-22630 Filed 10-2-86; 10:31 am]

BILLING CODE 6735-01-M

2

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1376]

TIME AND DATE: 2:00 p.m. (e.d.t.), October 8, 1986.

PLACE: Chattanooga Office Complex, Missionary Ridge Place, Auditorium, 1101 Market Street, Chattanooga, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on September 25, 1986.

Discussion Item

1. Chattanooga Technology Economic Development Initiative.

Action Items

B—Purchase Awards

B1. Invitation RA-101540—Multichannel Microwave Radio Equipment for PSCC-Wilson and PSCC-Volunteer Microwave Radio Systems.

C—Power Items

C1. Revision of Limited Interruptible Power Arrangements.

D—Personnel Items

D1. Supplement No. 2 to Employee Loan Agreement with Institute of Nuclear Power Operations—Contract No. TV-69552A.

D2. Suppplement to Personal Services Contract with Gilbert Commonwealth, Inc., Reading, Pennsylvania, for Services of Qualified Personnel to Perform Rigorous Analysis, Alternate Piping Analysis, and Pipe Support Design for TVA Nuclear Plants, Requested by Office of Nuclear Power.

D3. Supplement to Personal Services Contract with Impell Corporation, Norcross, Georgia, for Services of Qualified Personnel to Perform Rigorous Analysis, Alternate Piping Analysis, and Pipe Support Design for TVA Nuclear Plants, Requested by Office of Nuclear Power.

D4. Supplement to Consulting Contract with Charles F. Reeves of Belmont, Massachusetts, for Consulting Services in the Broad Areas of Civil, Mechanical, and Construction Engineering with Emphasis on Structures, Piping, and Equipment Response to Earthquake Ground Motion, Requested by Office of Nuclear Power.

D5. Project Life Severance Pay Eligibility for Certain Employees.

F—Unclassified

*F1. Designation of James R. Durall to Represent TVA in the Administration of TVA's Limited Partnership Interest in the Valley Venture Fund Limited Partnership.

*Item approved by individual Board members. This would give formal ratification to the Board's action.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: October 1, 1986.

W.F. Willis,

General Manager.

[FR Doc. 86-22647 Filed 10-2-86; 8:45 am]

BILLING CODE 8120-01-M

Federal Register

Monday
October 6, 1986

Part II

Department of Education

34 CFR Parts 76 and 653

Carl D. Perkins Scholarship Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Parts 76 and 653

Carl D. Perkins Scholarship Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues regulations to govern the actions of designated State agencies in their administration of the Carl D. Perkins Scholarship Program. The regulations are needed to implement Title V, Part E of the Higher Education Act of 1965, as amended by the Human Services Reauthorization Act of 1984, 20 U.S.C. 1119d–1119d–8. These regulations specify the responsibilities of the U.S. Secretary of Education, the State agencies which administer the scholarships, and the scholarship recipients.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Neil C. Nelson, Chief, State Student Incentive Grant Program, Office of Student Financial Assistance, Office of Postsecondary Education, U.S. Department of Education, (Room 4018, ROB–3), 400 Maryland Avenue, SW., Washington, DC 20202. Telephone (202) 245–9720.

SUPPLEMENTARY INFORMATION: The Carl D. Perkins Scholarship Program is authorized under Title V, Part E of the Higher Education Act of 1965, as amended by the Human Services Reauthorization Act of 1984. The purpose of the program is to provide scholarships to enable and encourage outstanding high school graduates who demonstrate an interest in teaching to pursue teaching careers at the elementary or secondary school level.

The scholarships are to be awarded on the basis of academic merit and an interest in teaching. The intention in awarding a scholarship is not merely to enable the recipient to complete successfully a course of study and obtain a teaching certificate, but to commit that individual to the pursuit of a teaching career. The legislation requires that a scholarship recipient teach at the elementary or secondary school level for two years for each year of scholarship assistance. A scholar who does not complete the teaching obligation is required to repay the scholarships received, prorated according to the fraction of the teaching obligation not completed, plus interest and collection fees.

These regulations also amend the Education Department General Administrative Regulations to make the provisions of 34 CFR Part 76 (State-Administered Programs) applicable to the Carl D. Perkins Scholarship Program.

On June 4, 1986, the Secretary published in the **Federal Register** (51 FR 20408–20412) a notice of proposed rulemaking for the Carl D. Perkins Scholarship Program. Interested parties were provided 30 days to submit their comments to the Secretary. A summary of the significant comments received and the Secretary's response to those comments is included as an appendix to the regulations.

In addition to the changes identified in the appendix, § 653.30, concerning scholarship eligibility requirements, is being revised. Paragraph (a) is being amended to include the requirement that a student, to be eligible for a scholarship, must not only be a permanent resident of the United States, but he or she must provide evidence from the Immigration and Naturalization Service of his or her permanent resident status. This additional requirement is being made in the final rule so that this program will be consistent with other Federal student financial assistance programs in regard to citizenship eligibility. Currently, the Pell Grant regulations (34 CFR 690.4) contain this provision as does the Guaranteed Student Loan (GSL) NPRM published in the **Federal Register** on September 4, 1985 (50 FR 35964–36013).

Section 653.30(a) is also being amended to conform with the Compact of Free Association Act of 1985, enacted on January 14, 1986 (Pub. L. 99–239), which provides for the termination of the trusteeship status of the islands formerly known as the Trust Territory of the Pacific Islands. This Compact will create two new entities—the Federated States of Micronesia and the Marshall Islands. In addition, another separate Compact is currently under consideration by the Congress which will create an independent entity, the Republic of Palau. Although the first Compact was signed into law on January 14, 1986, the effective date is being delayed, pending enactment of the Palau Compact.

Although the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau will not be eligible to participate in the Carl D. Perkins Scholarship Program, citizens of these islands who are in attendance at institutions of higher education in States that are participating in the program will continue to be eligible for Carl D. Perkins Scholarships, under the Compacts of Free Association. Therefore, the Secretary is revising the eligibility criteria in § 653.30(a) to include the citizens of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, in anticipation that the Compacts will become effective in the near future. However, the Secretary has also retained the references to the Trust Territory of the Pacific Islands to maintain the eligibility of permanent residents of the Trust Territory until the Compacts become efective.

Executive Order 12291

The regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local governmental coordination and review of proposed Federal financial assistance. In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on comments on the proposed rules and the Department's own review, it has been determined that the regulations in this document do not require information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 76

Grant Programs—education, Grants Administration, Intergovernmental relations, State-administered programs.

34 CFR Part 653

Education, Grant Programs—education, Scholarship, State-administered—education, Teachers.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of the regulations.

(Catalog of Federal Domestic Assistance Number 84.176: Carl D. Perkins Scholarship Program)

Dated: September 30, 1986.

William J. Bennett,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations by amending Part 76 and adding a new Part 653, as follows:

PART 76—STATE-ADMINISTERED PROGRAMS

1. The authority citation for Part 76 is revised to read as follows:

Authority: 20 U.S.C. 1221e–3(a)(1), unless otherwise noted.

2. In the table following § 76.1, Section D., Higher Education Programs, is amended by adding a new entry at the end of Section D, to read as follows:

§ 76.1 Programs to which Part 76 applies.

* * * * *

Name of program	Authorizing statute	Implementing regulations (34 CFR)	CFDA No.
D. Higher Education Programs			
* * * * * * *			
Carl D. Perkins Scholarship Program.	Title V, Part E of the Higher Education Act (20 U.S.C. 1119d–1119d–8).	Part 653	84.176
* * * * * * *			

3. Section 76.102 is amended by adding a new paragraph (aa) to read as follows:

§ 76.102 Definitions of "State plan" for Part 76.

* * * * *

(cc) *Carl D. Perkins Scholarship Program.* The application under Section 563 of the Higher Education Act.

* * * * *

4. The table following § 76.125 is amended by adding the following language to the list under "Postsecondary Education Programs":

§ 76.125 What is the purpose of these regulations?

* * * * *

POSTSECONDARY EDUCATION PROGRAMS

CFDA No. and name of program	Authorizing legislation	Implementing regulations Titles 34 CFR (Part)
* * * * *		
84.176 Carl D. Perkins Scholarship Program.	Title V Part E of the Higher Education Act (20 U.S.C. 1119d–1119d–8).	653
* * * * *		

5. A new Part 653 is added, to read as follows:

PART 653—CARL D. PERKINS SCHOLARSHIP PROGRAM

Subpart A—General

Sec.

Subpart B—What Assistance Does the Secretary Provide Under This Program?

Subpart C—How Does a State Apply for Grants?

Subpart D—How Does a State Select Scholars Under This Program?

Subpart E—What Are the Scholarship Conditions?

Authority: 20 U.S.C. 1119d–1119d–8, unless otherwise noted.

Subpart A—General

§ 653.1 What is the Carl D. Perkins Scholarship Program?

Under the Carl D. Perkins Scholarship Program the Secretary makes available, through grants to the States, scholarships to eligible individuals to enable and encourage them to pursue teaching careers at the elementary or secondary school level.

(Authority: 20 U.S.C. 1119d)

§ 653.2 Who is eligible to participate in this program?

(a) States are eligible to apply for grants under this program.

(b) Outstanding high school graduates who wish to pursue teaching careers at the elementary or secondary level are eligible to apply to their respective States of residence for scholarships under this program.

(Authority: 20 U.S.C. 1119d–2)

§ 653.3 What regulations apply to this program?

The following regulations apply to the Carl D. Perkins Scholarship Program:

(a) The regulations in this Part 653.

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 76 (State-Administered Programs), Part 77 (Definitions that Apply to Department Regulations), Part 78 (Educational Appeal Board), and Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(Authority: 20 U.S.C. 1119–d *et seq.*)

§ 653.4 What definitions apply to this program?

The following definitions apply to terms used in this part:

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Application
EDGAR
Elementary school
Nonprofit
Private

Public
Secondary school
Secretary
State
State educational agency

(b) *Other definitions that apply to this part.* The following additional definitions apply to this part:

"Academic year" means a period of time during which a full-time student is expected to complete the equivalent of one of the following:

(1) Two semesters.

(2) Two trimesters.

(3) Three quarters.

"Act" means the Higher Education Act of 1965, as amended.

"Award year" means the period of time from July 1 of one year through June 30 of the following year.

"Full-time student" means a student enrolled in an institution of higher education, other than a correspondence school, who is carrying a full-time academic workload as determined by the institution under standards applicable to all students enrolled in that student's program.

"Handicapped children" has the same meaning under this part as the same term defined in 34 CFR 300.5 of the Assistance to States for Education of Handicapped Children regulations.

"Institution of higher education" has the same meaning under this part as the same term defined in 34 CFR 668.2 of the Student Assistance General Provisions regulations.

"Limited English proficiency" has the same meaning under this part as the same term defined in 34 CFR 500.4 of the General Provisions regulations for the Bilingual Education Program.

"Scholar" means a scholarship recipient.

"Scholarship" means an award made to an individual under this part for one academic year.

(Authority: 20 U.S.C. 1119d—1119d–8)

Subpart B—What Assistance Does the Secretary Provide Under This Program?

§ 653.10 For what purposes may a State use its payments under this program?

A State may use its payments under the Carl D. Perkins Scholarship Program, including principal and interest payments it receives from scholars under § 653.42, only for making payments to scholars.

(Authority: 20 U.S.C. 1119d)

Subpart C—How Does a State Apply for Grants?

§ 653.20 What must a State do to receive grants under this program?

(a) To receive grants under the Carl D. Perkins Scholarship Program, a State shall submit an application to the Secretary for review and approval.

(b) The Secretary approves an application that—

(1) Designates as the State agency for the administration of the Carl D. Perkins Scholarship Program, either—

(i) The State agency which administers the State Student Incentive Grant Program under Title IV, Part A, Subpart 3 of the Act; or

(ii) The State agency which administers the Guaranteed Student Loan Program and with which the Secretary has an agreement under section 428(b) of the Act;

(2) Identifies the panel or agency which has established criteria and procedures for the selection of scholars and will select the scholars as required by §§ 653.31 and 653.32;

(3) Describes a program of activities for carrying out the purposes set forth in § 653.1 in such detail that the Secretary may determine the degree to which the State's program will accomplish those purposes. This description must include—

(i) The selection criteria and procedures to be used by the State, in the selection of scholars, which satisfy the provisions of this part; and

(ii) The procedures by which the designated State agency intends to publicize the availability of Carl D. Perkins Scholarships to secondary school students in the State;

(4) Explains how the criteria and procedures for the selection of scholars were developed and in what ways they reflect the State's present and projected needs for elementary and secondary teachers in general and for those with training in specific academic disciplines;

(5) Provides assurances that—

(i) No changes will be made in the designation of an agency to administer the Carl D. Perkins Scholarship Program, in the selection criteria and procedures to be used in the selection of scholars, or any other aspect of the program of activities described in its application without the prior written approval of the Secretary;

(ii) No one will receive a Carl D. Perkins Scholarship without entering into an agreement with the designated State agency under which he or she agrees to the terms specified in § 653.40;

(iii) The terms and conditions of the agreement which the State agency will enter into with scholars under § 653.40 will be fully disclosed in the scholarship application form;

(iv) The State agency will monitor scholars' compliance with the provisions of §§ 653.40, 653.41(b), and 653.42;

(v) The State agency will make particular efforts to attract students from low-income backgrounds or who express a willingness or desire to teach in school having less than average academic results or serving large number of economically disadvantaged students; and

(vi) Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background; and

(6) Contains a copy of the agreement referred to in paragraph (b)(5)(ii) of this section.

(c) Upon the Secretary's approval of its application, a State need not submit additional applications in order to continue to be considered for funding undr this program.

(Authority: 20 U.S.C. 1119d–2)

(Approved by the Office of Management and Budget under control number 1840–0578)

§ 653.21 What requirements must be met by States in the administration of the program?

(a) To continue to receive payments under this part, a State shall—

(1) Provide scholarship assistance only to students who meet the requirements of §§ 653.30, 653.40, and 653.41;

(2) Limit scholarship assistance to no more than four academic years for each scholar;

(3) Make reports to the Secretary that are necessary to carry out the Secretary's functions under this part;

(4) Establish and implement policies and procedures which are necessary to administer the repayment provisions of § 653.42 and, in cases of noncompliance with these provisions, implement collection and litigation procedures consistent with 34 CFR Part 682; and

(5) Except as otherwise provided in paragraph (d) of this section—

(i) Expend all funds received from the Secretary for scholarships during the award year specified by the Secretary with regard to those funds; and

(ii) Expend in that award year, for scholarships, all funds received by the State prior to that award year from principal and interest payments made under the provisions of § 653.42.

(b) A State shall award a scholarship in the amount of $5,000 for an academic year, except as otherwise provided in paragraph (c) of this section.

(c) A State shall not award a scholarship which exceeds the scholar's

cost of attendance. If a scholarship, when added to the amount the scholar is to receive for the same academic year under Title IV of the Act, would otherwise exceed the scholar's cost of attendance, as defined for the National Direct Student Loan Program in 34 CFR 674.11, the State shall reduce the scholarship by the amount in which the combined awards would be in excess of the scholar's cost of attendance.

(d) After awarding all scholarships for payment during an award year, as required by paragraph (a)(5) of this section, a State may reserve for expenditures in the following award year a remaining amount of funds which is less than the amount required for a scholarship as well as any funds that were awarded but were returned or not expended.

(Authority: 20 U.S.C. 1119d–3, 1119d–4, 1119d–5)

Subpart D—How Does a State Select Scholars Under This Program?

§ 653.30 What are the eligibility requirements?

To be selected as a scholar, an individual shall—

(a)(1) Be a United States citizen or National;

(2) Provide evidence from the U.S. Immigration and Naturalization Service that he or she—

(i) Is a permanent resident of the United States; or

(ii) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident;

(3) Be a permanent resident of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands: or

(4) Be a citizen of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau;

(b)(1) Have graduated from high school;

(2) Be scheduled to graduate from high school within 3 months of the date of the award; or

(3) Have received a certificate of high school equivalency for successfully completing the Tests of General Educational Development (GED); and

(c)(1) Rank in the top ten per cent of his or her graduating class; or

(2) Have received GED test scores recognized by the State to be equivalent to ranking in the top ten per cent of the high school graduates in the State, or nationally, in the academic year for which the eligibility determination is being made.

(Authority: 20 U.S.C. 1119d–4)

§ 653.31 Who selects the scholars?

(a) Scholars must be selected by—

(1) A seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency;

(2) An existing grant agency designated by the chief State elected official and approved by the Secretary, or

(3) An existing panel designated by the chief State elected official and approved by the Secretary.

(b) A selection panel must be representative of school administrators, teachers, and parents.

(Authority: 20 U.S.C. 1119d–4)

§ 653.32 What are the selection criteria and procedures?

(a) The panel or agency appointed or designated by the chief State elected official in accordance with § 653.31 shall establish criteria and procedures for the selection of scholars.

(b) The selection criteria and procedures must reflect the present and projected needs of the State for elementary and secondary teachers as required by section 563(c) of the Act and must be developed after consideration of the views of the State and local educational agencies, private educational institutions, and other interested parties as required by section 563(d) of the Act.

(c) The State shall make applications available to high schools in the State and in other locations convenient to applicants, parents, and other interested parties.

(d) The panel or agency referred to in paragraph (a) of this section shall select scholars without regard to whether applicants plan to attend publicly or privately controlled institutions.

(Authority: 20 U.S.C. 1119d–2, 1119d–4)

Subpart E—What Are the Scholarship Conditions?

§ 653.40 What agreement must a scholar have with the State agency?

(a) To receive a scholarship, an individual shall enter into an agreement with the State agency under which he or she agrees, except as otherwise provided in paragraph (b) of this section—

(1) To teach on a full-time basis, as determined by the institution or agency in which he or she is teaching, for a period of not less than two years for each year for which scholarship assistance was received—

(i) In a public elementary or secondary school in any State;

(ii) In a public elementary or secondary education program in any State;

(iii) In a private nonprofit elementary or secondary school located and serving students in a district eligible for assistance under Chapter 1 of the Education Consolidation and Improvement Act of 1981; or

(iv) Handicapped children, or children with limited English proficiency, in a private nonprofit elementary or secondary school;

(2) To fulfill the teaching obligation described in paragraph (a)(1) of this section within ten years after completing the postsecondary education degree program for which the scholarship was awarded;

(3) To provide the State agency evidence of compliance with paragraphs (a) (1) and (2) of this section and § 653.41 as required by the State agency; and

(4) To repay all or part of the scholarship plus interest and reasonable collection fees as specified in § 653.42 if the conditions of paragraphs (a) (1) and (2) of this section are not met or if the State agency determines that the individual is no longer pursuing a course of study leading to certification as a teacher at the elementary or secondary level.

(b) The requirement to teach two years for each year of scholarship assistance is reduced by one-half in the case of individuals who teach on a fulltime basis—

(1) In a school which is designated by the Secretary as meeting the provisions of 34 CFR 674.54(a) of the National Direct Student Loan Program regulations for the year in which the individual is teaching at the school or the prior year; or

(2) Handicapped children, or children with limited English proficiency, in an education program or school referred to in paragraph (a)(1) of this section.

(c) The agreement referred to in paragraph (a) of this section must include—

(1) A description of the procedures under which the provisions of § 653.42 (g) through (k) will be implemented; and

(2) A description of the procedures under which a scholar may appeal any determination of noncompliance with any provisions under this part.

(Authority: 20 U.S.C. 1119d–2)

(Approved by the Office of Management and Budget under control number 1840–0578)

§ 653.41 What are the requirements for a scholar to continue to receive payments under this program?

(a) A State agency shall continue to make payments to a scholar under this program only during the periods that the State agency finds that the scholar meets the conditions described in paragraph (b) of this section.

(b) To maintain eligibility for a scholarship, a scholar must be—

(1) Enrolled as a full-time student in an institution of higher education that is currently accredited by a nationally recognized accrediting agency or association that the Secretary determines to be a reliable authority as to the quality of training offered, in accordance with section 1201(a) of the Act;

(2) Pursuing a course of study leading to certification as a teacher at the elementary or secondary level, as determined by the State agency but not including graduate study that is not required for initial teacher certification; and

(3) Maintaining satisfactory progress as determined by the institution of higher education the student is attending, in accordance with the criteria established in 34 CFR 668.16(e) of the Student Assistance General Provisions regulations.

(Authority: 20 U.S.C. 1119d–5)

§ 653.42 What are the consequences of a scholar's noncompliance with the teaching requirement?

(a) A scholar found by a State to be in noncompliance with the agreement entered into under § 653.40, or to be no longer pursuing a course of study leading to certification as a teacher at the elementary or secondary level, shall—

(1) Repay the amount of the scholarships received, prorated according to the fraction of the teaching obligation not completed, as determined by the State agency;

(2) Pay a simple, per annum interest charge on the outstanding principal; and

(3) Pay all reasonable collection costs as determined by the State agency.

(b) The interest charge referred to in paragraph (a)(2) of this section accrues from—

(1) The date of the initial scholarship payment if the State agency has determined that the scholar is no longer pursuing a course of study leading to certification as a teacher at the elementary or secondary level; or

(2) The day after that portion of the scholarship period for which the teaching obligation has been fulfilled.

(c)(1) The interest charge referred to in paragraph (a)(2) of this section is adjusted annually, except as provided for under paragraph (c)(2) of this section, and is set at a rate which is the greater of—

(i) Fourteen percent; or

(ii) Five percent above the average of the bond equivalent rates of 91-day Treasury bills auctioned during the most recent quarter ending March 31.

(2) The interest charge applicable during the repayment period is the greater of the rates described in paragraphs (c)(1) (i) and (ii) of this section as determined when the repayment schedule is established.

(d) A scholar required by paragraph (a) of this section to repay his or her scholarship shall—

(1) Enter repayment status on the first day of the first calendar month after—

(i) The State has determined that the scholar is no longer pursuing a course of study leading to certification as a teacher at the elementary or secondary level, but not before six months has elapsed after the cessation of the scholar's full-time enrollment in such a course of study;

(ii) The date the scholar informs the agency he or she does not plan to fulfill the teaching obligations; or

(iii) the latest date on which the scholar must have begun teaching in order to have completed the teaching obligation within ten years after completing the postsecondary education for which the scholarship was awarded, as determined by the State agency; and

(2) Make monthly or quarterly payments to the State which—

(i) Cover principal, interest, and collection costs according to a schedule established by the State which calls for compete repayment within ten years after the scholar enters repayment status, except as provided in paragraph (j) of this section; and

(ii) Amount annually to no less than $1200 or the unpaid balance, whichever is less, unless the scholar's inability to pay this amount because of his or her financial condition has been established to the State's satisfaction.

(e) The State agency shall not require scholarship repayments amounting to more than $1200 annually unless higher payments are needed to complete the entire repayment within the ten-year period described in paragraph (d)(2) of this section.

(f) The State agency shall capitalize any accrued interest at the time it establishes a scholar's repayment schedule.

(g) A scholar is not considered in violation of the repayment schedule established under paragraph (d) of this section during the time he or she is—

(1) Engaging in a full-time course of study at an institution of higher education;

(2) Serving, not in excess of three years, on active duty as a member of the armed services of the United States;

(3) Temporarily totally disabled, for a period not to exceed three years, as established by sworn affidavit or a qualified physician;

(4) Unable to secure employment for a period not to exceed twelve months by reason of the care required by a spouse who is disabled;

(5) Seeking and unable to find full-time employment for a single period not to exceed twelve months; or

(6) Unable to satisfy the terms of the repayment schedule established by the State under paragraph (d)(2)(i) of this section and is also seeking and unable to find full-time employment as a teacher in a public elementary or secondary school or public education program.

(h) To qualify for any of the exceptions in paragraph (g) of this section, a scholar shall notify the State agency of his or her claim to the exception and provide supporting documentation as required by the State agency.

(i) During the time a scholar qualifies for any of the exceptions in paragraph (g) of this section, he or she need not make the scholarship repayments referred to in paragraph (d) of this section and interest does not accrue.

(j) The State agency shall extend the ten-year scholarship repayment period established under paragraph (d) of this section by a period equal to the length of time a scholar meets any of the conditions listed in paragraph (g) of this section or if a scholar's inability to complete the scholarship repayments within this ten-year period because of his or her financial condition has been established to the State's satisfaction.

(k) The State agency shall cancel a scholar's repayment obligations if it determines—

(1) On the basis of a sworn affidavit of a qualified physician, that the scholar is unable to teach on a full-time basis because of an impairment that is expected to continue indefinitely or result in death; or

(2) On the basis of a death certificate or other evidence of death that is conclusive under State law, that the scholar has died.

(Authority: 20 U.S.C. 1119d–6, 1119d–7)

Note.—This appendix will not be codified in the Code of Federal Regulations.

Appendix—Summary of Comments and Responses

Section 653.4 What definitions apply to this program?

Comment. One commenter recommended that a reference to 900 clock hours be added to the definition of "academic year" in § 653.4.

Response. No change has been made. The Department does not know of any institution of higher education offering a course of study leading to teacher certification that uses clock hours to measure an academic year.

Section 653.10 For what purposes may a State use its payments under this program?

Comment. Eight commenters recommended that some provision be made for States to receive administrative funds for operation of this program.

Response. No change has been made. Section 653.10 accurately reflects the statutory limitation on the use of funds made available for the Carl D. Perkins Scholarship Program by limiting the use of such funds to the awarding of Perkins scholarships.

Comment. Five commenters recommended that the same section be amended to enable States to make scholarship payments "for" or "on behalf of" eligible students so that States could make the scholarships payable to the institution to cover educational expenses.

Response. No change has been made. The provision that program funds are to be used for payments to scholars does not prohibit a State from making the payments to institutions to cover the educational expenses of scholarship recipients. In order to ensure that these scholarship funds are used for the educational purposes identified in § 653.1 and that the scholarships are coordinated with assistance provided under Title IV of the Act, as defined in § 653.21(c), the Department strongly encourages States to make the scholarship payments to institutions on behalf of the scholars.

Section 653.20 What must a State do to receive grants under this program?

Comment. One commenter indicated that the regulations do not provide adequate guidance to States on how to describe their scholar selection criteria and procedures in their application for funding.

Response. No change has been made. Section 653.20(b)(3) requires States to describe scholar selection criteria and procedures in such detail that the Secretary may determine the degree to which they will satisfy the provisions of § 653.1.

Comment. Five commenters took issue with § 653.20(b)(5)(i) and the prohibition against a State making changes in any aspect of the program of activities described in its application without the prior written approval of the Secretary. "No substantive changes" was the wording recommended by three of the commenters.

Response. No change has been made. Since the statute requires that a State's application be approved by the Secretary, it follows that any changes to the program of activities described in the application must also be approved by the Secretary.

Comment. Three commenters took exception to the requirement in § 653.20(b)(5)(iii) that a copy of the agreement which the State and the scholars to whom scholarships are awarded will enter into must be included in the application form. They indicated that significant printing and distribution costs could be saved if they could inform applicants of the terms of the agreement by other means.

Response. A change has been made. The State no longer has to include a copy of the agreement as long as it fully discloses the terms and conditions of the agreement between the State and the scholar in the scholarship application form.

Section 653.21 What requirements must be met by States in the administration of this program?

Comment. One commenter stated that more than four years of education may be necessary for those scholars who combine teacher certification with degrees in fields other than education. Therefore, the commenter recommended expanding the four-year limitation for receiving scholarships in § 653.21(a)(2) to five years.

Response. No change has been made. The four-year limitation is statutory.

Comment. Two commenters felt that the applicability to this program of the collection procedures in 34 CFR 682.410(b)(4) is inadequately defined.

Response. No significant change has been made. Detailed collection procedures will be established by the provisions of 34 CFR 682.410(b)(4), proposed regulations for the Guaranteed Student Loan Program (50 FR 35964–36013, September 4, 1985) which are expected to be published in final form shortly. Section 682.410 will be construed in the context of the Carl D. Perkins Scholarship Program. For example, "guarantee agency" should be understood to mean the State agency administering the scholarship program. "Borrower" should be understood to mean a scholar who is repaying his or her scholarship, and "loan" refers to the scholarship repayments. Paragraph (b)(4)(i) should be understood to mean: "The State agency administering the scholarship program shall engage in at least the collection efforts described in paragraphs (4)(iii)—(ix) of this section on scholarship repayments not made when due." The time frames identified, for collection on scholarship repayments, refer to the number of days that elapse from the date the scholar fails to make a payment when due. The first sentence of paragraph (b)(4)(iii)(A) of this section does not apply to the Carl D. Perkins Scholarship Program.

Comment. Eight commenters took issue with the proposed § 653.21(a)(5)(ii) requirement that a State must provide from its own funds an amount equal to the debt a scholar owes under the repayment provisions if the State fails to litigate as required by proposed § 653.21(a)(5)(i). Some questioned the ability of many States to commit funds for this purpose. One commenter recommended that the collection and litigation requirements of § 653.21(a)(4) be a condition of a State's participation in the program.

Response. A change has been made. Proposed § 653.21(a)(5)(ii) has been deleted, because it is unnecessary. States will tend to comply with the program's collection and litigation requirements, since § 653.21(a)(4) provides that their failure to do so will result in a discontinuance of their funding under this program.

Comment. Nine commenters strongly argued that the litigation provision of proposed § 653.21(a)(5)(i) should not be mandatory. The commenters pointed out that requiring litigation in cases where there is no prospect of receiving significant return of funds is not cost-effective. Two commenters wanted States to be given the prerogative to use alternative procedures to recover the funds.

Response. A change has been made. Section 653.21(a) has been revised to limit the requirements for litigation to procedures consistent with those specified in proposed 34 CFR 682.410(b)(4), relating to the Guaranteed Student Loan Program. (See citation above.) States are not required to litigate, therefore, if the cost of litigation would exceed the amount of the debt or if the scholar does not have the means to satisfy the likely judgment on the amount of the debt or a substantial portion thereof. In addition, although § 653.21(a)(4) contains minimum collection and litigation requirements, it

is not intended to limit State collection efforts. States may use other procedures than those specified to recover funds from scholars who are delinquent in their payments, *e.g.*, the garnishment of wages and State tax offsets.

Comment. Three commenters asked that the regulations be revised to indicate that the principal and interest payments the States collect from scholars in repayment and those deposited under the provisions of proposed § 653.21(a)(5)(ii) be kept for redistribution as scholarships.

Response. A change has been made. A new provision, revised § 653.21(a)(5)(ii), has been added to require that principal and interest payments collected by the State from scholars who have entered repayment status be expended by the State for additional scholarships. Using these payments for additional scholarships is consistent with the intent of the statute, which is that program funds are to be used only for scholarships. It is also consistent with the practice in other State-administered grant programs wherein unexpended and recovered funds are re-issued in new subgrants. As indicated above, proposed § 653.21(a)(5)(ii) has been deleted from the regulations.

Comment. Four commenters recommended changing § 653.21(c) to permit reduction in either the Perkins scholarship or the scholar's Title IV aid, if the scholarship, when added to the amount the scholar is to receive for the same academic year under Title IV, exceeds the scholar's cost of attendance.

Response. No change has been made. The requirement, as worded, is statutory.

Comment. Two commenters recommended that § 653.21(d) be revised to provide that States be allowed to reserve for expenditure in the following award year more than the current "remaining amount of funds which is less than the amount required for a scholarship." They pointed out that their experience with other programs, shows that previously awarded funds are inevitably returned, by students who did not use the funds, too late to be re-awarded. States wish to be able to reserve these funds for expenditure in the following year.

Response. A change has been made. Section 653.21(d) now provides that previously awarded funds that were returned or not expended may be reserved for expenditure in the following award year.

Section 653.30 What are the eligibility requirements?

Comment. One commenter recommended changing the wording of § 653.30(b) to emphasize enrollment in a higher education teacher certification program and to emphasize the intention to teach following graduation. Two commenters recommended that recruitment efforts and awards be concentrated, or even restricted, to students entering the junior or senior year of college, as opposed to recruiting high school seniors or incoming college freshman, since students are unlikely to be committed to a teaching career that early.

Response. No change has been made. The language of § 653.30(b) accurately reflects the statutory requirement that scholars be selected from outstanding students who are graduating or who have graduated from high school. The scholar's commitment to teaching is addressed in the conditions of the agreement between the State agency and the scholar.

Comment. One commenter recommended eliminating the use of GED test scores in scholar eligibility determinations so that the applicants' persistence in school and academic achievement can be fairly and accurately considered. The commenter noted that evidence "suggests that GED test takers are generally students who have failed to persist in their completion of traditional high school programs."

Response. No change has been made. If the appropriate State GED data is not available, a State may obtain national data to determine if a specific GED test score is equivalent to ranking in the top ten per cent of high school graduates in the nation, and thereby satisfy the eligibility requirement of § 653.30(c)(2). The Department has no data which suggests that a student who receives a GED test score, determined by the above method, to be equivalent to a highly ranked high school graduate is any less likely than the high school graduate to persist and succeed in a postsecondary program of study.

Section 653.31 Who selects the scholars?

Comment. Two comments were received concerning § 653.31. One recommended that the requirement that a scholar selection panel be representative of school administrators, teachers, and parents be revised to show an existing grant agency that is designated to select the scholars need not be so representative. The other recommended that the selection of students and other administrative functions be decentralized to institutions of higher education.

Response. No change has been made. The current regulatory language clearly indicates that only the panels designated to select the scholars must be representative of school administrators, teachers, and parents. With regard to decentralization of the program, the requirement in question—that this program be administered by either the State grant agency that administers the State Student Incentive Grant program or the State agency that administers the Guaranteed Student Loan program—is statutory, as are the scholar selection requirements of § 653.31.

Section 653.32 What are the selection criteria and procedures?

Comment. One commenter was concerned that § 653.32(c) refers only to the convenience of the public. He expressed the belief that the regulations should require a State to have an efficient application process as well as one that is convenient to the public.

Response. No change has been made. The requirement that applications be made available to the public at convenient locations is statutory.

Comment. Two commenters pointed out that the statutory provision that financial need may be a criterion in selecting scholars is in apparent contradiction to the requirement in § 653.32(d) that scholars be selected "without regard to the applicants' eligibility for assistance under Title IV of the Act."

Response. A change has been made. The Title IV reference has been deleted to avoid confusion.

Section 653.40 What agreement must a scholar have with the State agency?

Comment. One commenter recommended adding pre-school teaching to the elementary or secondary school teaching which fulfills the scholar's teaching obligation.

Response. No change has been made. The requirement to teach in an elementary or secondary school is statutory.

Comment. A number of commenters made recommendations for revisions to § 653.40(a)(1). Several commenters recommended that if a scholar received significantly less than the full $5,000 scholarship for an academic year, the scholar's teaching obligation should be reduced from two years to one year. Five commenters urged that § 653.40(a)(1) (i) and (ii) be changed to require the teaching agreement to be fulfilled through teaching in the State

that awarded the scholarship. Finally, one commenter requested that § 653.40(a)(1)(iii) be revised to allow scholars to satisfy the teaching obligation by teaching in any private nonprofit elementary or secondary school.

Response. No change has been made. The provisions contained in § 653.40(a)(i)–(iii) are all derived from the statute, which provides no discretion with regard to the length of the teaching period required or the schools in which scholars must teach. Nor does the statute restrict the scholar in his or her choice of the State in which to teach.

Comment. One commenter recommended amending § 653.40(a)(2) to indicate that the ten-year period during which scholars have to fulfill their teaching obligation is "exclusive of periods delineated in § 653.42(g)," to allow for "temporary interruption or postponement of the teaching service."

Response. No change has been made. The current regulations allow for, at minimum, a two-year "grace period," in that they allow a scholar ten years in which to satisfy the maximum eight-year obligation. The statute provides no additional allowance for temporary interruptions. The exceptions listed in section 568 of the statute apply specifically to the repayment provisions, rather than the teaching obligation period.

Comment. One commenter recommended that the collection fees referred to in § 653.40(a)(4) be retained by the State which awarded the scholarship.

Response. No change has been made. Collection fees are to be retained by the State agency, since they are intended to reimburse the State agency for collection expenses. No change is necessary.

Section 653.41 What are the Requirements for a Scholar to Continue to Receive Payments Under This Program?

Comment. One commenter observed that the term "postsecondary institution" in § 653.41 should be replaced by the term "institution of higher education" for consistency with the definition of full-time student.

Response. A change has been made. The term "institution of higher education" is now used throughout the regulations, and a definition of the term has been added to §653.4 (by cross-reference to the Student Assistance General Provisions regulations).

Comment. One commenter recommended that scholars be allowed to be enrolled less than full-time, but not less than half-time, to maintain eligibility for scholarship payments.

Response. No charge has been made. Full-time enrollment is a statutory requirement.

Comment. Nine commenters recommended changes in the wording of § 653.41(b)(2). They felt that scholars in States that do not require a four-year program for teacher certification will be eligible under the wording of § 653.30 to receive an initial scholarship for their freshman year, but will not be eligible in their sophomore year, because of the wording of § 653.41(b)(2). One commenter observed that "course of study leading to certification as a teacher at the elementary or secondary level" may be interpreted to include master's and doctorate degree programs.

Response. A change has been made. Section 653.41(b)(2) has been revised to allow State agencies to continue to make payments to scholars who continue to pursue appropriate courses of study. This section now indicates that the State agency administering the scholarship program determines whether or not a course of study leads to teacher certification. However, the course of study may not include graduate study that is not required for initial teacher certification. Scholarships are awarded to encourage and enable scholars to obtain initial certification and to teach, not to pursue graduate degrees in education.

Comment. Two commenters recommended that, in addition to having to maintain satisfactory progress, scholars should also have to maintain a reasonable minimum cumulative grade point average to continue to receive scholarship payments.

Response. No change has been made. Under the regulations States have the option of including grade point average as a scholar selection factor.

Section 653.42 What are the Consequences of a Scholar's Noncompliance With the Teaching Requirement?

Comment. Four commenters argued that the repayment requirement is too burdensome. They pointed out that college students often change their major field of study. One suggested that scholars who change their minds about their careers should not have to repay the total amount of the scholarship. Others suggested a lower interest rate or not capitalizing the accrued interest.

Response. No change has been made. Congress provided for the repayment requirement in the statute and further provided that the rate of interest was to be prescribed by the Secretary through the issuance of regulations. The reason the Secretary established a substantial interest rate for repayment is to ensure that the purposes of the program are fulfilled, to discourage the use of the scholarship program as a loan program and to discourage scholars who have begun teaching from leaving the profession.

Comment. Five commenters believed that the 25% maximum collection fee, in § 653.42(a)(3), is not adequate to cover actual expenses. One wanted to know specifically what is covered by the term "reasonable collection cost" and whether or not the collection fee may be covered in the State's agreement with the scholar.

Response. A change has been made. The 25% maximum has been removed. However, State agencies still must comply with applicable State and Federal laws in the amount they charge. Collection costs consist of all State expenses which the State can document as being attributable to the collection and litigation procedures identified in § 653.21(a)(4) for which the State is not reimbursed through court decisions. The collection fee must be explained in the agreement between the State and the scholar, under the provisions of § 653.40(a)(4).

Comment. Two commenters took opposing views on § 653.42 (a) and (d)(1)(i), which state that scholars can be found to be in noncompliance with the agreement to teach if they cease to pursue *the* postsecondary education degree program for which the scholarship was awarded. One commenter hoped this provision allowed States to determine a scholar to be in noncompliance if he or she changes from a teacher certification program in the specific field of study for which the scholarship was awarded to a teacher certification program in another field of study. The other commenter expressed hope that that was not the meaning of the proposed regulations because the commenter believed that scholars should not be penalized for changing their field of study while remaining in a teacher certification program.

Response. A change has been made. Sections 653.42(a) and (d)(1)(i), as well as §§ 653.40(a)(4) and 653.42(b)(1), have been revised to indicate that scholars are in noncompliance if the State agency finds them to be no longer pursuing a course of study leading to certification as a teacher at the elementary or secondary level. While a State may decide not to award another scholarship to a scholar who remains in a teacher certification program but changes his or her field of study, it may not, for this

reason, require such a scholar to repay the scholarships he or she has received.

Comment. One commenter wanted to know if the interest referred to in § 653.42(b)(1) begins accuring when the scholar ceases to be enrolled as a full-time student.

Response. No change has been made. A scholar does not enter repayment status if he or she is enrolled, on either a full-time or a part-time basis, in a course of study leading to certification as a teacher at the elementary or secondary level. When a scholar discontinues such a course of study, he or she enters repayment status. At that time, the State agency capitalizes the interest which has accrued from the date of the initial scholarship payment and establishes a payment schedule.

Comment. Eight comenters said they found the adjustable interest rate to be needlessly complex and burdensome: it woud require the States to monitor a multitude of rates, to make annual administrative changes, and to recalculate interest charges annually for every scholar.

Response. No change has been made. Since the adjustable rate applies only to the period in which interest is accured up to the time the scholar enters repayment status, it does not require the States to recalculate charges annually or made administrative changes annually. A State must consider the varying annual rates only at the time it calculates and capitalizes accrued interest when it establishes the repayment schedule. The applicable rate for any year may be obtained from the U.S. Department of Education.

Comment. One commenter was concerned that the adjustable interest rate would make it impossible to disclose accurately the rate of interest at the time the funds are disbursed.

Response. No change has been made. While the exact rate cannot be disclosed at the time the funds are disbursed, the method of computing the rate will be disclosed for the applicant's consideration before he or she applies for the scholarship. Examples of the computation can also be provided.

Comment. One commenter raised the issue of the necessity for the State agency to keep track of scholars who have teaching certification but who do not enter teaching. In the most extreme cases, a scholar who has received only one scholarship, therefore having only a two-year teaching obligation, still has eight years following graduation before either teaching or beginning scholarship payment, because all scholars have a total of ten years to fulfill a maximum of eight years of teaching obligation.

Response. No change has been made. Allowing scholars ten years to complete the teaching obligation is statutory.

Comment. One commenter indicated that § 653.42(d)(1) does not adequately identify the month in which a scholar enters repayment status.

Response. A change has been made. The section now clearly states that the scholar enters repayment status the first calendar month after the specified events.

Comment. Three commenters urged that § 653.42(d)(1) include a grace period before a scholar is required to begin repayment.

Response. A change has been made. Section 653.42(d)(1)(i) now includes a six-month grace period before a scholar is required to begin repayment. However, it should be noted that the grace period applies only to those scholars who cease to pursue a course of study leading toward a teaching certificate. This change will provide scholars who discontinue their education an opportunity to find employment before they begin repayment. Scholars who have received a teaching certificate but fail to satisfy the program's teaching requirement have at least a two-year "grace period" in that they have ten years to complete a maximum eight-year obligation.

Comment. One commenter requested that States be given the authority to accept less than the $1,200 annual scholarship repayment if the scholar is unable to make payments at that rate but would likely repay at a lesser rate. The commenter pointed out that if the agency has no authority to accept less than $1,200 annually, litigation would be required, with the likelihood that the litigation settlement would be a lower repayment schedule.

Response. A change has been made. Sections 653.42(d)(2)(ii) and 653.42(i) have been revised to allow the States to accept payments that total less than $1,200 annually where the scholar's inability to pay that amount because of his or her financial condition has been established to the State's satisfaction.

Comment. One commenter questioned the maximum annual scholarship repayment specified in § 653.42(e). The commenter wanted the maximum repayment left open to mutual agreement between the State and the scholar.

Response. No change has been made. While a State cannot require a payment in excess of $1,200 annually unless higher payments are needed to complete the entire repayment in ten years, this provision does not preclude a State and a scholar from mutually agreeing to higher payments.

Comment. One commenter suggested that a scholar should be considered to qualify for the repayment exception specified in § 653.42(g)(1) if he or she is enrolled at least half-time.

Response. No change has been made. The statute provides for an exception to repayment when the scholar "returns to a full-time course of study."

Comment. One commenter recommended that § 653.42(g)(2) be amended to indicate that the exception to repaying the scholarship while the scholar is serving in the armed services applies only to a period of active duty.

Response. A change has been made. Section 653.42(g)(2) has been amended to be consistent with other Federal student financial assistance programs. It now states that the exception applies to active duty members of the armed services.

Comment. One commenter wanted to know if the definition of "temporarily totally disabled" in § 653.42(g)(3) included pregnancy and a reasonable amount of time after childbirth.

Response. No change has been made. Pregnancy, like any other medical situation, could be such that a physician would consider it to be temporarily totally disabling.

Comment. Six commenters noted that the § 653.42(g)(6) exception to having to repay the scholarship because the scholar is "seeking and unable to find full-time employment as a teacher in a public elementary or secondary school or public education program" is open-ended and is an invitation to abuse. Several commenters recommended that a twelve-month limit be added.

Response. A change has been made. While a time limit cannot be added, since the statute does not provide for one, the exception has been amended to prevent its abuse. Section 653.42(g)(6) now provides that a scholar must be unable to satisfy the terms of his or her repayment schedule to qualify for this exception.

Comment. One commenter pointed out that administration of the six temporary exceptions to repayment of the scholarship will be much more difficult for the States if the scholars do not take the initiative to inform the administering agencies of their claim to an exception. The commenter recommended that the scholars be required to inform the administering agency.

Response. A change has been made. A new § 653.42(h) has been added to require the scholar to notify the State agency of his or her claim to an exception and provide supporting documentation.

Comment. One commenter recommended that what is now § 653.42(i) be amended to have any of the six exceptions from scholarship repayment begin either on the date that a State determines the eligibility exists or on the date the scholar informs the agency of the eligibility and provides supporting proof.

Response. No change has been made. The statute directly relates the exceptions to the six conditions specified in § 653.42(g) and not to the time a State determines the conditions exist.

Comment. One commenter believed that the State agency's authority to cancel a scholar's repayment obligation if that obligation has been discharged in bankruptcy should be included in what is now § 653.42(k).

Response. No change has been made. The statute does not provide for cancellation of repayment obligations for reasons other than those currently cited. In addition, such a provision is unnecessary since State agencies already have this authority under the provisions of the Bankruptcy Code.

Comment. One commenter recommended that what is now § 653.42(k)(1) be amended to provide for prorated cancellation of a scholar's repayment obligation in the case of a disability that may permit less than half-time teaching.

Response. No change has been made. The provision for cancelling a scholar's repayment obligation because he or she becomes permanently and totally disabled is statutory. The statute does not provide authority for the cancellation of a scholar's repayment obligation for any circumstances less severe than permanent and total disability.

Comment. Three commenters urged that the regulations be revised to provide for a scholar seeking a leave of absence for child birth or adoption and child care during the early formative months of life. One referred to a parenting deferment, limited to two years, in a State financial assistance program.

Response. No change has been made. Under the regulations scholars who take on parenting obligations during the ten-year teaching obligation period have at least two years during which they may fulfill those parenting obligations.

Comment. One commenter raised the issue that this program is not need-based and therefore undermines all existing Federal student aid programs which are need-based.

Response. No change has been made. Section 565(b) of the program statute provides that States may include financial need as a scholar selection criterion.

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Part III

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 531

Passenger Automobile Average Fuel Economy Standards for Model Years 1987-88; Final Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. FE-85-01; Notice 6]

Passenger Automobile Average Fuel Economy Standards for Model Years 1987-88

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends the average fuel economy standards applicable to passenger automobiles manufactured for model years (MY) 1987 and 1988, by reducing the standards from 27.5 mpg to 26.0 mpg. This rulemaking was initiated in response to petitions for rulemaking submitted by General Motors (GM) and Ford. The agency earlier reduced the MY 1986 standard from 27.5 mpg to 26.0 mpg as part of the rulemaking related to those petitions. Based on all available information, including public comments, NHTSA has concluded that GM and Ford, constituting a substantial part of the industry, took or planned appropriate steps to meet the 27.5 mpg standard for MY 1987–88 and made significant progress toward doing so, but have been prevented from fully implementing those steps by unforeseen events. Among other things, there has been a substantial shift in expected consumer demand toward larger cars and engines, and away from the more fuel-efficient sales mixes anticipated for MY 1987–88 by GM and Ford when they developed their product plans. This shift is largely attributable to a decline in gasoline prices, which has stimulated consumer demand for the new mix. Also, a number of technological improvements planned by GM and Ford did not achieve the full fuel economy benefit that was anticipated by those manufacturers. The agency's analysis further indicates that the only actions now available to those manufacturers to raise the fuel economy of their domestic fleets to 27.5 mpg in MY 1987–88 would involve a combination of (1) product restrictions likely resulting in significant adverse economic impacts, including substantial job losses and sales losses and unreasonable restrictions on consumer choice, and (2) transferral of the production of large cars outside of the United States, thereby costing American jobs, while having absolutely no energy conservation benefits. Such actions could also severely exacerbate the U.S. trade deficit.

DATES: The amendments made by this rule to the Code of Federal Regulations are effective November 5, 1986. The standards are applicable to the 1987 and 1988 model years. Petitions for reconsideration must be received by November 5, 1986.

ADDRESS: Petitions for reconsideration should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Shelton, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202–366–0846).

SUPPLEMENTARY INFORMATION:

Background

A. The Energy Policy and Conservation Act

1. Overview

In December 1975, during the aftermath of the energy crisis created by the oil embargo of 1973–74, the Congress enacted the Energy Policy and Conservation Act (EPCA). Congress included a provision in that Act establishing the automotive fuel economy regulatory program. That provision added a new title, Title V, "Improving Automotive Efficiency," to the Motor Vehicle Information and Cost Savings Act.

Title V specified corporate average fuel economy (CAFE) standards for cars of 18, 19, and 20 mpg for model years 1978, 1979, and 1980, respectively, and 27.5 mpg for 1985 and thereafter. The Secretary of Transportation was required to establish standards for model years 1981–84. Section 502(a)(3) required that the standards for each of those model years be set at a level which (1) was the maximum feasible average fuel economy level and (2) would result in steady progress toward meeting the 27.5 mpg standard for model year 1985.

Although Congress clearly established the 27.5 mpg value as a goal to strive for (27.5 mpg is roughly twice the MY 1974 CAFE), it recognized that such long-term goals are subject to considerable uncertainty. As discussed below, the Act permits, but does not require, the Department to change the standard based on up-to-date information and changing trends and assumptions.

When EPCA was enacted, Congress declared its long-term purpose to be to "decrease dependence upon foreign imports, enhance national security, achieve the efficient utilization of scarce resources, and guarantee the availability of domestic energy supplies at prices consumers can afford." Conference Report (S. Rep. No. 94–516, 94th Cong., 1st Sess. (1975)) at p. 117. In considering EPCA, Congress predicted that the nation's dependence on foreign oil could be "nearly 12 million barrels per day in 1985," and expressed concern about the adverse effect of such a level of imports on the international balance of trade. (H.R. Rep. No. 94–221, 94th Cong., 1st Sess. (1975).) It was noted that the cost of foreign oil had risen from about $7 billion to $25 billion between 1973 and 1974 and could easily increase to $60 billion in 1985 (in constant dollars).

EPCA was passed in an environment of Congressional concern about a weak economy and a desire by Congress to encourage energy conservation without causing adverse economic and employment consequences. See H.R. Rep. No. 94–221, 94th Cong., 1st Sess. (1975) at pp. 14–15, and H.R. Rep. No. 94–340, 94th Cong., 1st Sess. (1975) at pp. 9–11, 87–88. The legislative history of amendments to EPCA that were enacted in 1980 also indicates Congressional concern about jobs. Indeed, one of the stated purposes of the 1980 amendments was "to encourage full employment in the domestic automobile manufacturing sector." See section 2 of the Act.

Congress' goal of energy conservation by improved automotive fuel efficiency has largely been realized. By 1985, U.S. imports of oil were less than when EPCA was enacted, and the cost in constant 1974 dollars was not the $60 billion feared by Congress but instead approximately $24 billion. In MY 1986, for the first time, the average fuel economy of the total fleet of new cars will in fact exceed 27.5 mpg. In addition, not only has the average fuel economy for all cars sold reached the basic congressional goal, but consumers now have wide choice in purchasing fuel-efficient cars of all types and sizes.

While EPCA's energy conservation goals have largely been realized, NHTSA confronts a record in this rulemaking which indicates that EPCA's secondary concern of ensuring that the fuel economy program does not result in losses of American jobs is at risk. As discussed below, the only actions available to GM and Ford in the near-term to achieve fuel economy levels of 27.5 mpg, i.e., for MY 1987–88, would involve a combination of (1) product restrictions likely resulting in significant adverse economic impacts, including substantial job losses and sales losses and unreasonable restrictions on consumer choice, and (2) transferring the production of large cars outside of the United States, thereby costing

American jobs while having absolutely no energy conservation benefits. Indeed, it should be noted that this could severely exacerbate the U.S. trade deficit, which, as noted above, was one of Congress' concerns when it enacted EPCA. In 1975, Congress was concerned about the effect of increased oil imports on the U.S. balance of trade; The agency notes that the trade deficit is now at an all-time high, due in large measure to the increase in automobile imports.

A major reason that GM and Ford are having difficulty achieving a CAFE of 27.5 mpg, in addition, as discussed below, to an unexpected drop in gasoline prices since their MY 1987–88 product plans were developed, relates to major changes which have occurred in the structure of the automotive industry since EPCA was passed. Due to major cost advantages in producing small cars abroad, imports comprise an increasing share of U.S. car sales. For example, while imports represented between 15 and 20 percent of all cars sold in the U.S. between 1973 and 1977, they are expected to comprise 35 percent of sales in 1987–88. Since imports are concentrated in the smaller, most fuel-efficient market segment, the rising share of imports makes it more difficult for the full-line domestic manufacturers to achieve CAFE of 27.5 mpg, since their cars are concentrated more in the mid-size and larger market segment.

Moreover, as discussed below, although GM and Ford themselves can attempt to solve the problem of their small car production cost disadvantage by importing small cars, they cannot count the imports toward their domestic CAFE for purposes of meeting CAFE standards. NHTSA notes that the Japanese manufacturers find it easy to meet CAFE standards due to their concentration on the smaller car market. Similarly, GM's import fleet will easily surpass CAFE of 27.5 mpg during MY 1987–88, as will Ford's by MY 1988. Thus, the present difficulties faced by the full-line manufacturers in complying with CAFE standards are in fact largely limited to an artificial subset of their cars. The agency notes that not only will the average fuel economy of the total fleet of new cars exceed 27.5 mpg during MY 1987–88, but GM's total fleet, including domestic, import and joint venture cars, is expected to be 27.5 mpg by MY 1988.

The provision in EPCA which prevents manufacturers from averaging their import and domestic cars for purposes of complying with CAFE standards was, as discussed below, intended to discourage manufacturers from meeting CAFE standards by increasing imports of small cars. Ironically, that same provision now creates an incentive for the domestic manufacturers to meet standards by producing their larger, less-fuel efficient cars outside the U.S., since the larger cars could then be averaged with small car imports, rather than with mid-size domestic cars.

As indicated above, Congress recognized the difficulties in predicting CAFE levels a decade in advance and, therefore, permitted the Department to amend CAFE standards. Section 502(a)(4) provides that the Secretary of Transportation may raise or lower the 27.5 mpg standard for model year 1985 or for any subsequent model year if he or she determines that some other standard represents the maximum feasible average fuel economy level. In determining maximum feasible average fuel economy, the Secretary is required under section 502(e) of the Act to consider four factors: technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, and the need of the nation to conserve energy. (Responsibility for the automotive fuel economy programs was delegated by the Secretary of Transportation to the Administrator of NHTSA (41 FR 25015, June 22, 1976).)

While compliance with fuel economy standards is determined by averaging, enabling manufacturers to produce vehicles with fuel economy below the level of the standard if they produce sufficient numbers of vehicles with fuel economy above the level of the standard, manufacturers may not average their imported cars together with their domestically manufactured cars. Instead, manufacturers must meet fuel economy standards separately for their imported and domestically manufactured fleets. (See section 503.) Cars are considered to be domestically manufactured if they have at least 75 percent domestic content. Conversely, cars are considered to be imports, or as the statute characterizes them, "not domestically manufactured," if they have less than 75 percent domestic content.

While a separate fuel economy standard is set for each model year, the Cost Savings Act does not require absolute achievement of the standard within each year. Instead, it allows a shortfall in one year to be offset if a manufacturer exceeds the standard for another year or years. Under the Act, as amended by the Automobile Fuel Efficiency Act of 1980, manufacturers earn credits for exceeding average fuel economy standards which may be carried back for three model years or carried forward for three model years.

2. Congressional intent

While the Congress established a goal of 27.5 mpg, it also recognized the need for flexibility and authorized the Department to adjust the standards to the maximum feasible level.

The report accompanying H.R. 7014, the bill containing the House version of the fuel economy provisions (which would have specified a 28.0 mpg standard for 1985 and thereafter), stated that "the automobile industry has a central role in our national economy and that any regulatory program must be carefully drafted so as to require of the industry what is attainable without either imposing impossible burdens on it or unduly limiting consumer choice as to capacity and performance of motor vehicles." H.R. Rep. No. 94–340, 94th Cong., lst Sess. 87 (1975). As another indication of the congressional view of the need for flexibility, the report recognized the difficulty in establishing goals ten years in the future by stating that "(t)he 1985 average fuel economy standard presented a different problem [than establishing standards for MY's 1979–80] because of the high level of uncertainty which attends any attempt to predict technological feasibility a decade into the future." Id. at 88. The Committee also stated that although the 1985 standard was a "clear target," it also provided DOT the authority to amend that target so as to provide the program "with the necessary flexibility." *Ibid.*

It is noteworthy that the Secretary was given authority to lower the standard for MY 1985 or for any subsequent year to 26.0 mpg without such action being subject to a one-house veto. Conversely, any action to raise the standard above 27.5 mpg or to lower it below 26.0 mpg was subject to that form of congressional review and disapproval. While such legislative vetoes have since been declared unconstitutional, the separate treatment in the original legislation of action to lower the standard to any level between 26.0 mpg and 27.5 mpg appears to reflect Congress' view of the likelihood of such events and its willingness to accept—without formal review—Departmental actions making slight reductions in the long-term goal established by the Act.

B. Setting the 1981–84 Standards

On June 30, 1977, NHTSA published in the **Federal Register** (42 FR 33534) a final rule establishing the 1981–84 passenger automobile CAFE standards. The selected standards were 22 mpg for

1981, 24 mpg for 1982, 26 mpg for 1983, and 27 mpg for 1984.

As part of establishing the 1981–84 standards, the agency developed estimates of the maximum feasible fuel economy for each manufacturer for model years 1981 through 1985. The agency's conclusion at that time was that "levels of average fuel economy in excess of 27.5 mpg are achievable in the 1985 time frame." 42 FR 33552. The agency believed that it was feasible in model year 1985 for General Motors to achieve an average fuel economy level of 28.9 mpg, Ford 27.9 mpg, and Chrysler 28.7 mpg. See 1977 Rulemaking Support Paper (RSP), p. 5–38 (Table 5.11). Those levels were based on a number of assumptions, including the ability of manufacturers to maintain a rapid rate of introduction of technology, consumer acceptance of a 10 percent reduction in vehicle acceleration and significant use of a widespread range of technological options, including weight reduction, improved transmissions and lubricants, reduced aerodynamic drag, reduced accessory losses and reduced tire rolling resistance.

The agency's estimates did not assume a downward mix shift in automobile sizes or the use of diesel engines. The agency concluded that a standard set at a level that required substantial mix shifts would not be economically practicable due to the risk that a significant number of consumers might defer purchasing new automobiles, resulting in a substantial sales drop. However, these techniques were viewed in the 1977 rule as "constituting a safety margin" for manufacturers in the event that other technological improvements did not result in sufficient CAFE improvements. 42 FR 33545, June 30, 1977. The agency also noted that some manufacturers might decide to use some of those measures in place of some of the ones assumed by the agency's estimates. 42 FR 33545.

As to foreign manufacturers, the 1977 RSP projected that all but three of them could improve their average fuel economy levels, without expanded use of diesel engines, sufficiently to meet the 27.5 mpg standard. With fleet fuel economy improvements from additional diesels included in the foreign fleet projections, only one manufacturer, Mercedes-Benz, was projected to fall below the 1985 standard.

It should be emphasized that the agency's 1977 estimates were intended to demonstrate the feasibility of achieving the 27.5 mpg standard and not to predict what specific actions the manufacturers would actually take to achieve that standard. The agency's estimates were based on one scenario of what the agency believed manufacturers could do to achieve an average fuel economy level of 27.5 mpg by 1985. Manufacturers were free to pursue other courses of action to achieve the 27.5 mpg fuel economy level.

C. Events From 1977 to 1984

In January 1979, NHTSA presented new feasibility estimates for each manufacturer for model years 1980 through 1985 in its Third Annual Report to the Congress on the Automotive Fuel Economy Program (44 FR 5742, January 29, 1979). The agency stated that "(o)n balance, the conclusions reached during the 1981–84 rulemaking . . . are similar to those resulting from the most recent assessments. These assessments indicate that all domestic manufacturers can exceed the scheduled standards for each year through 1985." 44 FR 5757.

NHTSA recognized in its Third Annual Report that the changes in vehicle design necessary to meet the fuel economy projections would require tremendous outlays of capital. The agency also recognized that its feasibility estimates were dependent on the continued financial health of the industry and could be subject to change in the event of a severe economic downturn.

The Third Annual Report noted that a number of manufacturers did not agree with the agency's conclusion that "(t)he technology is available that will enable manufacturers to achieve an average fuel economy of 27.5 mpg without reducing vehicle interior space or significantly affecting performance and without changing the mix of size classes."

Between January and May of 1979, NHTSA received a number of submissions from Ford and General Motors on the 1981–84 fuel economy standards for passenger automobiles asserting that those standards should be reduced. In response to these submissions, the agency published a document entitled "Report on Requests by General Motors and Ford to Reduce Fuel Economy Standards for MY 1981–85 Passenger Automobiles," DOT HS–804 731, June 1979. The report concluded that the standards were technologically feasible and economically practicable and noted that both companies had submitted product plans for meeting the standards. Report, p. 14.

Shortly thereafter, the nation was in the midst of another energy crisis, brought on by events in Iran. Gasoline prices were rising rapidly, creating significantly increased consumer demand for small cars. The U.S. city average retail price for unleaded gasoline rose from 90 cents per gallon in 1979 to $1.25 in 1980. (In 1985 dollars, this increase would have been from $1.28 in 1979 to $1.63 in 1980.) In light of these changed conditions, the industry announced that it would significantly exceed the 27.5 mpg standard for 1985. Both Ford and GM as well as Chrysler and American Motors, indicated that they expected to achieve average fuel economy in excess of 30 mpg for that model year. Product plans submitted to NHTSA by those companies indicated that the projections assumed significant mix shifts toward smaller cars and rapid introduction of new technology. A letter submitted to the agency by Ford in July 1980, however, cautioned that "it is important to emphasize that the affordability of many of these programs is dependent upon substantial improvement in the market and economic conditions."

On January 26, 1981, NHTSA published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** (46 FR 8056) which addressed the issue of passenger automobile fuel economy standards for model year 1985 and beyond. That notice and an accompanying paper entitled "Analysis of Post-1985 Fuel Economy," assumed that manufacturers would achieve their announced average fuel economy goals of over 30 mpg for 1985. The notice also took note, however, of a deepening economic crisis then facing the auto industry and possible effects on financing investments for improving fuel economy.

On April 16, 1981, NHTSA published in the **Federal Register** (46 FR 22243) a notice withdrawing the ANPRM. The notice stated that "(t)his action is being taken in recognition of market pressures which are creating strong consumer demand for fuel-efficient vehicles and sending clear signals to the vehicle manufacturers to produce such vehicles. It is expected that the market will continue to act as a powerful catalyst. . . ."

Conditions affecting fuel economy changed dramatically after 1981, following completion of decontrol of domestic oil and other external factors increasing available supplies. Gasoline prices did not rise as they had in the 1970's but instead declined over time. This, combined with economic recovery, caused actual consumer demand to shift back toward larger cars and larger engines. Data submitted to the agency by GM and Ford in mid–1983 indicated that instead of achieving fuel economy well in excess of the 27.5 mpg standard for MY 1985, they would be unable to

meet the level prescribed by the standard.

Petitions

In July 1984, NHTSA received a petition for rulemaking from the Center for Auto Safety (CFAS) and the Environmental Policy Institute (EPI) requesting that the MY 1987–90 passenger automobile average fuel economy standards be increased. The agency granted the CFAS/EPI petition in a notice published in the **Federal Register** (49 FR 46770) on November 28, 1984. The agency stated that it believed the issues raised by the petition should be analyzed in the context of rulemaking and granted the petition to that extent.

In March 1985, both GM and Ford submitted petitions for rulemaking requesting that NHTSA reduce the passenger automobile average fuel economy standard for the 1986 model year and beyond from 27.5 mpg to 26.0 mpg. The petitioners stated that factors beyond their control, including lower gasoline prices and resultant greater consumer demand for larger cars and engines, had reduced their fuel economy capability. NHTSA granted the GM and Ford petitions in a notice published in the **Federal Register** (50 FR 12344) on March 28, 1985, and requested public comments. The agency noted that it was already considering the CFAS/EPI petition with respect to model years 1987 and thereafter.

MY 1986 Standard

On September 30, 1985, NHTSA issued a final rule which reduced the MY 1986 standard from 27.5 mpg to 26.0 mpg (50 FR 40528, October 4, 1985).

In developing the MY 1986 final rule, NHTSA proceeded from the premise that because the Cost Savings Act had imposed a long-term obligation on manufacturers to achieve a 27.5 mpg fuel economy level, it would be inappropriate to exercise its discretion to reduce the standard if a current inability to meet the standard simply resulted from manufacturers previously declining to take appropriate steps to improve their average fuel economy as required by the Act. The agency therefore evaluated the manufacturers' past efforts to achieve higher levels of fuel economy as well as their immediate capabilities.

Based on all available information, including the public comments received in response to the March 1985 **Federal Register** notice and a subsequent NPRM (50 FR 22912, July 22, 1985), NHTSA concluded that GM and Ford, constituting a substantial part of the industry, had taken or planned appropriate steps to meet the 27.5 mpg standard in MY 1986 and made significant progress toward doing so, but were prevented from fully implementing those steps by unforeseen events. A decline in gasoline prices which began in 1982 had been expected to be temporary and quickly reverse, but instead continued. The agency concluded in the MY 1986 rulemaking that, among other things, there had been a substantial shift in expected consumer demand toward larger cars and engines, and away from the more fuel-efficient sales mixes recently anticipated for MY 1986 by GM and Ford. The agency's analysis indicated that this shift was largely attributable to the continuing decline in gasoline prices. NHTSA's analysis further indicated that the only actions then available to those manufacturers to improve their fuel economy for MY 1986 would have involved product restrictions likely resulting in significant adverse economic impacts, including sales losses well into the hundreds of thousands and job losses well into to the tens of thousands, and unreasonable restrictions on consumer choice. Based on its analysis of the relevant statutory criteria, NHTSA determined that the maximum feasible average fuel economy level for MY 1986 was 26.0 mpg.

NPRM for MY 1987–88

On January 22, 1986, NHTSA published in the **Federal Register** (51 FR 2912) an NPRM to amend the MY 1987–88 passenger automobile average fuel economy standards, within a range of 26.0 mpg to 27.5 mpg for each model year. The agency invited both written and oral comments on the proposal. A public meeting was held on February 19, 1986, in Washington, DC, to receive oral comments.

Public Comments

Comments were received both from parties strongly supporting a reduction in the MY 1987–88 passenger automobile CAFE standards and parties strongly opposing such action. Many of the parties took positions similar to those taken in the MY 1986 proceeding.

Both of the petitioners, GM and Ford, continued to urge that the standards be reduced to 26.0 mpg. GM argued that it had met or exceeded EPCA's technological objectives, and that changed circumstances over the past decade support a determination that the standards for the 1987–88 model years must be amended to a level no higher than 26.0 mpg. That company stated that any higher standard would threaten substantial production curtailments, job losses, limitations on consumer choice, and other economically impracticable consequences that far outweigh any marginal energy conservation benefit of a higher CAFE standard. GM emphasized that its current MY 1987–88 CAFE projections are subject to uncertainties, and urged that the standards be set at levels to enable it to generate sufficient carryback credits to cover unanticipated shortfalls with respect to the MY 1985 standard.

Ford argued that a 26.0 mpg standard for both model years is consistent with the uncertainties in predicting consumer demand and market conditions, the fuel economy benefits associated with its new products, and technology and fuel prices. While emphasizing the steps it has taken to improve its fuel economy, Ford stated that it believes an analysis of the relevant statutory factors demonstrates that the same major changes in market conditions which led NHTSA to amend the MY 1986 CAFE standard from 27.5 mpg to 26.0 mpg have an even greater impact on the ability of full line manufacturers to comply with the existing MY 1987–88 standards. That company emphasized the continuing decline in fuel prices, which it stated is expected to encourage further shifts toward larger cars and engines, and the increasing market share of Japanese and other imports in the small car market. Like GM, Ford argued that any impact on petroleum consumption associated with reducing the MY 1987–88 standards to 26.0 mpg would be minimal.

Professor Robert Leone of Harvard University, commenting on behalf of the Automobile Importers of America (AIA), presented an analysis concluding that MY 1987–88 standards above 26.0 mpg are not feasible because of constraints on manufacturers' attempts to pursue competitive strategies consistent with the globalization of the auto industry, not efficient because of the excessive costs incurred as a consequence of restrictions on consumer diversification options, and not sound energy policy because of possible adverse effects on energy consumption and economic efficiency that result from regulation-induced market distortions.

The National Automobile Dealers Association (NADA) urged that the MY 1987–88 standards be set at 26.0, arguing that higher standards would result in manufacturers restricting the availability of larger, less fuel-efficient vehicles. According to NADA, such product restrictions would send an "economic shock-wave" from dealers to manufacturers and through the economy in general.

The Recreational Vehicle Industry Association (RVIA) supported MY 1987–88 standards of 26.0 mpg, arguing that

any increase beyond that level could result in a lack of available tow vehicles to safely pull the four million travel trailers presently on the road.

As in the MY 1986 proceeding, individual European manufacturers supported lowering the standards for both model years to 26.0 mpg, citing the significant steps they have taken to improve fuel economy, increased market demand for larger cars and engines, and the difficulty that limited-line manufacturers have in achieving higher average fuel economy if they do not produce small cars whose fuel economy can be averaged in with that of their larger cars.

The U.S. Department of Commerce (DOC) urged that the MY 1987–88 standards be reduced to 26.0 mpg, stating that based on its analyses of the short- and long-term competitive challenges facing the U.S. automobile industry, the changed energy outlook, and the industry's progress in developing and applying new technology to improve fuel economy, a CAFE standard of 27.5 mpg no longer appears to be the maximum feasible level attainable for those model years. That Department stated that a large part of the U.S. automobile industry will not be able to exceed the current CAFE standards by a margin sufficient to carry back credits to meet an expected shortfall in MY 1985 unless it reduces its domestic fleet product offerings and adjusts its output mix. DOC stated that its analysis indicates that such changes in product mix and reduced product offerings could result in significantly reduced automobile production and employment, and could have economically damaging consequences for producers, workers and consumers.

The Bureaus of Consumer Protection, Competition, and Economics of the Federal Trade Commission (FTC Staff) submitted a theoretical model and analysis assessing the economic consequences of a 27.5 mpg standard for MY 1987–88. The FTC Staff analysis concluded the following:

> . . . in the short-term, the costs borne by society if the 27.5 mpg standard is imposed would be substantial. The price of large cars may rise by as much as 22 percent as large-car production drops by 1.7 million units. While small-car production may rise by an amount between 350,000 and 670,000 units, total domestic car production nonetheless may fall by more than 900,000 units. The short-term employment effects are substantial: over 130,000 jobs in the domestic automobile industry will disappear. Overall, the sum of the deadweight loss to consumers and producers and the output losses caused by the temporary unemployment generated by the higher CAFE standard would range between a low of $3.0 billion and a high of $3.5 billion. . . .

Based on its analysis, the FTC Staff urged NHTSA to set the MY 1987–88 standards at 26.0 mpg.

The U.S. Department of Energy (DOE) submitted a comment focusing on three areas: Market uncertainty, technology marketability and cost-effectiveness, and manufacturers' fuel economy capabilities. That Department stated that its analysis shows that market uncertainty has not been a decisive factor by itself with respect to year-to-year changes in new car CAFE. DOE commented that the industrywide car size mix has been relatively stable over the past few years as fuel prices have continued to decline, but what has happened is that the mix failed to further shift towards smaller cars to the degree some manufacturers had anticipated. With respect to technology marketability and cost-effectiveness, DOE stated that its analysis of the cost-effectiveness of a range of fuel economy technologies found that all those that it examined were cost-effective at a fuel cost of $1.00/gallon and all were either cost-effective or neutral at $.75 a gallon. DOE stated that it does not find any reason to believe that consumers are rejecting the concept of technology-based fuel economy improvements. That Department stated that its analysis of technology has shown that most cost-effective technologies have already been adopted by both Ford and GM in their subcompacts and compacts, but many technologies that are cost-effective to the consumer have not been introduced in several models in the large and intermediate size classes. DOE commented that NHTSA should evaluate the economic feasibility of GM and Ford introducing such technologies in MY 1987–88. DOE stated that it estimates Ford and GM could achieve CAFE of between 27 mpg and 27.3 mpg in 1987 and above 27.5 mpg in 1988, although these estimates are subject to uncertainties about a number of market-related factors. DOE did not recommend specific values for the MY 1987–88 standards, but emphasized its opposition to setting standards at a level that would require product restrictions.

Several civil rights organizations and other groups and individuals interested in minorities urged that the MY 1987–88 standards be reduced to 26.0 mpg. The Reverend Jesse Jackson of the National Rainbow Coalition commented that a reduction is needed as "it will be necessary to drop from production many family line vehicles, and the consequent layoffs would have a severe adverse impact in the black communities." Rev. Jackson stated that "(a)s one in every five assembly line production workers in the auto industry is black and some 204 dealerships comprising over 35 percent of the top businesses listed in Black Enterprise 100 are an integral part of the black economy, these workers and dealerships contribute measurably to the economic stability and growth of the black community." According to that commenter, "(t)he imposition of the 27.5 mpg standards could seriously threaten that growth by removing thousands of workers from auto assembly lines." Benjamin Hooks, Executive Director of the National Association for the Advancement of Colored People (NAACP), commented that "(w)ith the minority community reeling from double digit unemployment, some caused by the massive layoffs in the automobile industry, we are cognizant of the fact that unless efforts are made to strengthen our domestic industries, there is a great likelihood that we will experience additional increases [in] unemployment." That commenter stated that while the NAACP shares "the nation's goal of decreasing gas consumption and decreasing our dependence on foreign petroleum products, it is our belief that decreasing gas consumption would not compensate for the possible job loss if the American automobile industry is forced to comply with the 27.5 mpg standards." John E. Jacob, President of the National Urban League, commented that "(o)ur greatest concern is that abandoning the 26 mpg standard could encourage American manufacturers to drop or restrict production of family-size cars, resulting in further job losses in an industry that has already experienced wrenching unemployment problems." That commenter added that "the industry and its suppliers are major employers of black and minority workers and rules that retard employment in the industry will harm a black economy impacted by 15 percent unemployment rates." Other organizations supporting standards of 26.0 mpg include the National Urban Coalition, the United Negro College Fund, the Labor Council for Latin American Advancement, and the Ibero-American Chamber of Commerce.

The Heritage Foundation urged that the MY 1987–88 standards be reduced to 26.0 mpg, arguing that the single most important factor affecting the domestic manufacturers' CAFE, the price of oil, is beyond the manufacturers' control, that few benefits would result from enforcing standards of 27.5 mpg, and that 27.5 mpg standards would result in significant economic harm to the domestic industry and the nation as a whole.

The Insurance Institute for Highway Safety (IIHS) argued that CAFE standards can have a potentially adverse effect on vehicle safety, since vehicle size is an extremely important factor in safety. That commenter urged that the agency consider this issue when choosing an appropriate CAFE target.

The Competitive Enterprise Institute argued that the MY 1987–88 standards should be reduced to a "non-forcing level," which it suggested might be 22 mpg. That commenter argued that fuel economy standards result both in economic disruptions to the American economy and in additional fatalities as the car fleet changes toward smaller cars.

Numerous other commenters, including automotive suppliers; dealers, employees and stockholders of GM and Ford; states and local governments; almost 100 members of Congress; and private individuals, also supported standards of 26.0 mpg for MY 1987–88. The states and local governments included the Kentucky State Senate and House of Representatives, the governor of Kansas, and a number of mayors and city councils.

Standing in sharp contrast to the comments favoring a reduction in the MY 1987–88 standards were those urging that the standards be left at 27.5 mpg. Chrysler argued that NHTSA has two options: enforcing the law as Congress wrote it or cutting the ground out from under a vital energy conservation program by granting an unwarranted reduction in the standards. That commenter argued that the changes in market conditions on which GM and Ford base their present CAFE difficulties were plainly in evidence as long ago as 1982, and that there is no reasonable basis on which the agency could now find that those companies were unable to respond to these changes by the 1987 and 1988 model years. Chrysler alleged that GM and Ford chose corporate strategies that emphasized short term profit maximization over a longer term strategy of meeting the law. That company cited past and current decisions by GM and Ford to continue selling what it termed "older technology rear wheel drive cars," and listed a number of technological improvements which it argued GM and Ford could have taken to meet the standards within the available time.

The Center for Auto Safety (CFAS) argued that Ford and GM can attain 27.5 mpg in MY 1987–88; that the agency has grossly overestimated market uncertainty, particularly with respect to how falling gasoline prices and foreign competition may affect CAFE; and that the recent drop in oil prices increases the chance of yet another energy disruption and underscores the urgent necessity of maintaining the current fuel economy standards. With respect to the issue of possible job losses, CFAS argued that the job losses NHTSA should really consider are those associated with Ford and GM moving production of their small cars outside the U.S. That commenter noted that Ward's Auto World has reported that Ford is already planning to outsource 400,000 to 450,000 small cars by 1988, and argued that with lower fuel economy standards for MY 1987–88, Ford and GM would take the opportunity to further export American small car jobs to foreign countries.

The Americans for Energy Independence stated that the current condition of abundant oil and plummeting prices is temporary and that in the circumstances of today's oil market public policy, including CAFE standards, is needed to compensate for market signals that favor cheap oil.

The state of California, the cities of Los Angeles and New York, and the Southern California Association of Governments argued that a reduction in the MY 1987–88 standards would have a significant adverse impact on the environment and that the agency is required to prepare a full Environmental Impact Statement instead of an Environmental Assessment for this rulemaking.

Numerous other commenters, including private individuals and a few members of Congress, also urged that the standards remain at 27.5 mpg.

Supplemental NPRM

On July 30, 1986, NHTSA published in the **Federal Register** (51 FR 27224) a supplemental NPRM (SNPRM) concerning the argument put forth by GM that the agency may (or indeed, must) consider a company's need for carryback credits in determining the maximum feasible average fuel economy level. The notice requested comment on a tentative conclusion by the agency that the argument should be rejected, and also asked commenters to address whether their position on the issue would differ if adoption of the GM argument would necessitate establishing the standard below 26.0 mpg for either or both model years.

Agency's Analytical Approach

NHTSA is following the same basic analytical approach it adopted for the MY 1986 rulemaking. In that rulemaking, the agency explained its approach as follows:

> . . . section 502(a)(4) provides that if NHTSA determines that a level other than 27.5 mpg is the maximum feasible average fuel economy for 1985 or any subsequent model year, the agency may change the standard for that year to that level. If NHTSA were writing on a blank slate and establishing the MY 1986 standard for the first time, it would simply evaluate the current average fuel economy levels of the manufacturers and determine what improvements could be made in those levels between now and the end of MY 1986. This would involve taking into account the capabilities of each manufacturer and considering the four factors listed in section 501(e), i.e., technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, and the need of the nation to conserve energy.
>
> The agency agrees with Chrysler and other commenters, however, that the issue is not solely whether manufacturers are not capable of meeting the 27.5 mpg standard. Since the Cost Savings Act imposed a long-term obligation on manufacturers to achieve a 27.5 mpg fuel economy level, it would be inappropriate to reduce the standard if a current inability to meet the standard simply resulted from manufacturers previously declining to take appropriate steps to improve their average fuel economy as required by the Act. Therefore, the agency must evaluate the manufacturers' past efforts to achieve higher levels of fuel economy as well as their current capabilities.
>
> On the other hand, the agency does not consider it appropriate to judge each and every manufacturer product action by 20–20 hindsight. In assessing the sufficiency of manufacturers' fuel economy efforts, it is necessary to take account of the information available to manufacturers at the time product decisions were being made.
>
> Manufacturers had an obligation to take whatever steps were necessary, consistent with the factors of section 502(e), to meet the 27.5 mpg standard. To the extent that manufacturers had plans to meet the standard which subsequently became infeasible due to unforeseen events, NHTSA does not believe the manufacturers should be charged with a failure to make a sufficient effort.
>
> The agency's analytical approach thus consists of first evaluating the maximum feasible average fuel economy level that manufacturers are now capable of achieving in MY 1986, taking into account the four factors of section 502(e) and second, to the extent that level is determined to be below 27.5 mpg, assessing the sufficiency of manufacturers' efforts to meet the 27.5 mpg standard, in light of the information available to manufacturers at the time fuel economy product decisions were being made and the four factors of section 502(e).

GM stated in its comment on the NPRM for MY 1987–88 that it "agrees . . . that such an approach generally reflects a reasonable interpretation of EPCA and the Agency's authority to set amended standards." However, that company

also commented that the "sufficiency" assessment is not required by the statute and is unnecessary for accomplishment of the legislative goals. GM argued that the significance of the original 27.5 mpg standard adopted by Congress should not be "overstated" and that neither NHTSA nor the manufacturers are compelled to present a special justification or "defense" for the finding that the actual "maximum feasible" level is now less than 27.5 mpg. That company also commented that the agency's finding in the MY 1986 rulemaking concerning the sufficiency of original product plans need not be reopened and could be considered final for purposes of this proceeding as well.

NHTSA believes that evaluating the sufficiency of efforts to date by the manufacturers to achieve 27.5 mpg CAFE is required under EPCA and the Administrative Procedure Act (APA). EPCA's basic statutory scheme consists of mandatory CAFE standards, set in advance of a model year in order to provide the manufacturers time to bring their fleets into compliance, and civil penalties for failure to meet the standards. Manufacturers thus have a legal obligation to pursue over time all feasible means, consistent with the factors of section 502(e), necessary to meet CAFE standards. The primary significance of the 27.5 mpg level with respect to amending standards is that it is the law unless and until it is amended by NHTSA. The agency's amendment authority is discretionary. Under the APA, a reviewing court would examine whether the agency had abused its discretion in exercising that authority. Given the overall statutory scheme, NHTSA believes, and thinks that a court would likely find, that it would be an abuse of discretion for the agency to reduce a CAFE standard if a current inability to meet such standard simply resulted from the regulated industry previously declining to take reasonable steps to meet the standard.

Moreover, while NHTSA agrees that its evaluation of this issue in the MY 1986 rulemaking is relevant to the current rulemaking, it believes that sufficiency of past efforts must specifically be considered for MY 1987–88. The agency's determinations in the MY 1986 rulemaking with respect to both sufficiency of efforts made through September 1985 and maximum feasible average fuel economy level were not necessarily determinative with respect to MY 1987–88. While the agency determined in the MY 1986 rulemaking that manufacturers had made sufficient efforts to achieve 27.5 mpg for that model year, which had been overtaken by unforeseen events, it also acknowledged that with 20–20 hindsight it was possible to point to various additional actions that manufacturers could have taken to improve their fuel economy, e.g., greater penetration of certain fuel-efficient technologies. The agency also emphasized that while changes in product plans which may, as an unintended effect, reduce CAFE are consistent with the statutory criteria to the extent that they reflect changes in what is economically practicable, manufacturers recognizing the consequences of such changes must then pursue additional means, consistent with the factors of section 502(e), to meet standards.

Manufacturer Capabilities for MY 1987–88

As part of its consideration of technological feasibility and economic practicability, the agency has evaluated the manufacturers' fuel economy capabilities for MY 1987–88. In making this evaluation, the agency has analyzed the manufacturers' current projections and underlying product plans and has considered what, if any, additional economically practicable actions the manufacturers could take to improve their fuel economy.

A. Manufacturer Projections

GM and Ford have submitted a number of different projections of their MY 1987–88 CAFE levels over the past several years, reflecting changing product plans. This section focuses on the manufacturers' latest projections, since those projections reflect the manufacturers' current product plans. The current MY 1987–88 projections of both GM and Ford are lower than earlier projections. The differences between those manufacturers' current product plans and earlier ones are discussed below in the section entitled "Manufacturer Compliance Efforts."

The agency notes that one factor which complicates a discussion of manufacturer projections is Environmental Protection Agency (EPA) test adjustment credits. Between 1983 and 1985, EPA was engaged in rulemaking to provide CAFE adjustments to compensate for the effects of past test procedure changes. During this time, some but not all manufacturers included CAFE adjustments in their projections based on what they expected EPA to do. EPA ultimately adopted a formula approach for calculating CAFE adjustments. While the CAFE adjustment differs among manufacturers due to their different vehicle mixes, a typical adjustment during the MY 1987–88 time period is 0.1 or 0.2 mpg. In the discussion of manufacturer projections in this notice, the projections include the EPA test credit adjustment unless it is noted otherwise.

GM projected in July 1986 that it could achieve a CAFE no higher than 26.3 mpg in MY 1987 and 26.9 mpg in MY 1988. Based on GM's pre-model year report, NHTSA used a MY 1986 baseline of 26.4 mpg in analyzing that company's projections. GM's mid-model year report, submitted on July 31, 1986, confirmed that GM's MY 1986 CAFE will be about 26.4 mpg.

While there are a number of changes in GM's fleet between MY 1986 and MY 1987, they largely cancel each other out for CAFE calculation purposes. A number of mix effects reduce the company's CAFE by 0.2 mpg. An additional decline of about 0.1 mpg is attributable to test results, related to EPA testing. There is also a slight decline related to a draft EPA Advisory Circular concerning coastdown requirements. Largely offsetting these declines are various technological improvements, a number of which are engine improvements.

(The details of the changes are subject to a claim of confidentiality as confidential business information whose release could cause competitive harm. This is also true with respect to this notice's discussion of other manufacturer projections.)

For MY 1988, GM itself projects a CAFE increase of 0.6 mpg, to 26.9 mpg. More favorable model and engine mixes result in 0.5 mpg of this projected gain. A number of technological actions, related to engines and transmissions, result in a 0.2 mpg gain. Among other things, as GM testified at the February 1986 public meeting, a new 4-cylinder, 16 valve engine "will provide a major advance in fuel economy." GM stated that this 4-cylinder engine in fact outperforms the 6-cylinder engine and that will replace both 6-cylinder and 8-cylinder engines. The agency notes that GM's projection assumes full consumer acceptance of this new engine and the fact that technical difficulties will not arise that could delay introduction of the engine. Past experience, however, indicates that there are significant uncertainties associated with major new products, particularly those incorporating new technology. For example, GM experienced problems related to consumer acceptance and/or technical difficulties for its diesel engine and its V8–6–4 engine. Should GM experience technical difficulties that delay introduction of its new engine, or should there be a lag in consumer acceptance of

the engine, there would be a decline in GM's projected MY 1988 CAFE. GM's expected CAFE gains are partially offset by another change related to improving performance in response to anticipated consumer demand.

Ford projected in May 1986 that it could achieve a CAFE level between 26.3 mpg and 27.1 mpg in MY 1987, and between 25.5 mpg to 26.3 mpg in MY 1988. The material supporting the Ford submission indicates that Ford considers the high ends of its projected ranges to be its most likely CAFE levels. The high ends are based on Ford's estimates of probable consumer demand conditions and incorporate certain technical risks which Ford considers likely to occur. The lower ends represent additional risks, relating to possible sales mix shifts, beyond what Ford has already incorporated based on its primary estimate of consumer demand conditions. These additional risks include potential increases in larger car sales, due to drops in gasoline prices, and the possibility of increasing Korean and Japanese car sales. Ford's projections do not include the significant usage of extraordinary marketing and incentive programs.

Based on Ford's 1986 pre-model year report and sales data during the model year, NHTSA used a MY 1986 baseline of 26.8 mpg in analyzing that company's projections. The general magnitude of this number was confirmed in Ford's mid-model year report, submitted on July 29, 1986, which indicated that Ford's MY 1986 CAFE would be between 26.8 mpg and 27.0 mpg. The 26.8 number is 0.5 mpg higher than the Ford projection NHTSA cited in the MY 1986 proceeding. In that proceeding, NHTSA indicated that Ford's maximum projected MY 1986 CAFE was 26.3 mpg, which was subject to risks amounting to 0.5 mpg. See 50 FR 40547 (October 4, 1985). Ford indicated in its mid-model year report that increased sales of fuel-efficient models/powertrains had significantly increased its CAFE. A number of other factors, each having a relatively small impact on Ford's CAFE, also affected that company's CAFE.

Ford's high end MY 1987 projection of 27.1 mpg would represent a 0.3 mpg increase over its MY 1986 CAFE. There are a number of changes expected in Ford's fleet for MY 1987. Changing sales mix, including completion of the replacement of the rear-drive LTD/Marquis mid-size sedans and station wagons with the more fuel-efficient Taurus/Sable front-drive cars, accounts for a CAFE gain of 0.3 mpg. Technological improvements relating to transmissions and engines account for an additional 0.3 mpg gain. Partially offsetting these gains, resulting in a 0.3 mpg loss, are certain changes designed to enhance consumer acceptability of particular products.

Ford's high end MY 1988 projection of 26.3 mpg would represent a 0.8 mpg drop in its CAFE as compared to MY 1987. Changing sales mix accounts for a CAFE decline of 0.9 mpg. The changing sales mix reflects, among other things, fewer sales of domestically produced smaller cars as Ford sells larger numbers of imported small cars, and the timing of model years. Certain added technical risks account for an additional 0.1 mpg decline. Partially offsetting these losses, by 0.2 mpg, are technological improvements in a number of areas.

Chrysler: Chrysler projects that, not including the EPA test credit adjustment, it will achieve a CAFE of 27.5 mpg in 1987 and 28.6 mpg in MY 1988. By comparison, Chrysler projects that it will achieve a CAFE of 27.4 mpg in MY 1986 (again not including the EPA adjustment).

For MY 1987, Chrysler's CAFE projection is almost identical to its MY 1986 projection. Chrysler projects minor mix shifts and the introduction of the Shadow/Sundance "upscale" compacts.

For MY 1988, Chrysler's CAFE projection increases by 1.1 mpg. The primary reasons for this increase are technological improvements and model changes.

Chrysler's projected technological improvements are comparable to those already used by other manufacturers. As discussed in the MY 1986 proceeding, the primary reason Chrysler's CAFE is higher than that of GM and Ford is that Chrysler does not compete in all the market segments in which GM and Ford sell cars.

Other Manufacturers: As part of its analysis for this rulemaking, NHTSA asked four import car manufacturers to provide their latest CAFE projections for MY 1987–88. as well as lists of planned technological improvements for those model years. The import companies are Toyota and Honda, which are the two largest selling imports, and Volvo and Mercedes-Benz, which are among the largest selling European imports. Both Volvo and Mercedes-Benz produce a relatively narrow range of models in the larger and heavier size classes. In the discussion which follows, none of the projections include EPA adjustments.

Both Toyota and Honda project reductions in their MY 1987–88 CAFE levels as compared to MY 1986, although they will continue to remain well above 27.5 mpg due to their emphasis on smaller cars. Toyota projects that its CAFE will decline from 32.2 mpg in MY 1986 to 31.8 mpg in MY 1987 and 31.7 mpg in MY 1988. Honda projects that its CAFE will decline from 34.2 mpg in MY 1986 to 32.2 mpg in MY 1987 and 32.0 mpg in MY 1988. One reason accounting for the decline in Honda's CAFE is the introduction of the Acura Legend, which is less fuel-efficient than Honda's other cars. Since that car was introduced mid-way through MY 1986, Honda's CAFE projection for that year does not reflect full year sales of that car. Both companies project CAFE declines attributable to mix shifts toward less fuel-efficient cars, which are partially offset by technological improvements.

Volvo projects that its CAFE will decline from 26.5 mpg in MY 1986 to 26.2 mpg in MY 1987 and MY 1988. Mercedes-Benz projects that its CAFE will rise from 21.1 mpg in MY 1986 to 22.7 in MY 1987, and then decline slightly to 22.5 mpg in MY 1988. Since Mercedes introduced a more fuel-efficient, 300 series diesel late in MY 1986, that company's MY 1986 projection does not reflect full year sales of that car.

None of the four import manufacturers which provided detailed information to NHTSA project any dramatic changes in CAFE due to improved technology or model offerings for MY 1987 and 1988. Technology developments are generally typical of those already used or projected to be used by the rest of the industry. The differing CAFE levels are primarily attributable to the different market segments served by the manufacturers.

NHTSA has less detailed information for other manufacturers. American Motors and Volkswagen, however, are expected to easily exceed 27.5 mpg for MY 1987–88. Other European manufacturers, including BMW, Peugeot, Saab and Jaguar, are expected, like Volvo and Mercedes-Benz, to be below the 27.5 mpg level for MY 1987–88. By way of example, BMW and Peugeot projected in their MY 1986 mid-model year reports that they would achieve a CAFE of 25.7 mpg and 24.8 mpg, respectively, for that model year, and Saab and Jaguar projected in their MY 1986 pre-model year reports that they would achieve a CAFE of 26.0 mpg and 19.1 mpg, respectively, for that model year.

In analyzing the manufacturers' fuel economy projections and underlying product plans, NHTSA has considered the reasonableness of mix assumptions. The agency has particularly focused on GM's and Ford's assumptions in this area, since, as discussed below, those companies' MY 1987–88 projections

have declined in recent years due to changed expectations concerning mix.

Given the dynamic and interactive nature of (1) an individual manufacturer's product plan, (2) the product plans of the manufacturer's competitors, and (3) consumer demand, analyzing mix assumptions is a highly complex matter. The agency notes that since many factors affect mix, sales mix changes between model years for a particular manufacturer may relate to several factors and may or may not indicate a trend with respect to overall consumer demand. For example, if a manufacturer introduces a new model, the high level of sales ordinarily associated with a new model may result in increased sales of whatever size class the vehicle happens to be, thereby altering the mix. Similarly, the deletion of particular models or the gradual aging and resultant reduced popularity of particular models may also result in mix effects. The agency also notes that, for GM and Ford, the mix effects generally discussed in this notice reflect only changes in those companies' domestic production and not mix effects for their sales as a whole, which include captive imports. For all of these reasons, mix effects between model years for a particular manufacturer, which can have substantial effects on the manufacturer's CAFE level, need not result from a change in overall consumer demand. Thus, even if total industrywide consumer demand for larger cars is not increasing, a variety of other economic factors can adversely GM's and Ford's year-to-year CAFE capabilities.

In analyzing specific manufacturer capabilities below, the agency has considered whether particular expectations concerning sales of various models are reasonable.

CFAS argued in its comment that GM's and Ford's current projections "undoubtedly" assume an excessive sales mix for the large car segment. That commenter argued that the assumption that falling oil prices will have a substantial impact on automakers' CAFE in 1987 and 1988 is speculative, illogical, ignores current market data and contradicts the most recent statistical data from the Department of Energy and Oak Ridge National Laboratory. CFAS cited a DOE report which stated that the large car share does not appear to have been affected by the drop in the real price of gasoline over the past four years. That commenter stated that Hard's Automotive Reports indicates that the large car segment has eroded by 30 percent from just one year ago. CFAS argued that market trends demonstrate low actual market demand for rear-wheel drive cars, and submitted an article headlined "Rear-Wheel Big Cars Slipping," which it contended supported its position. That commenter also argued that consumer demand for larger engines has decreased since 1981, based on statistics showing that the sales weighted engine size in terms of CID has dropped for both large and mid-size cars.

NHTSA has analyzed GM's and Ford's MY 1987–88 projections and concluded that they do not assume an excessive sales mix for the large car segment. In making this conclusion, the agency has compared GM's and Ford's projections with the sales experience for MY 1986. GM and Ford are not assuming significantly higher sales of large cars. Similarly, the agency has concluded that the projections do not assume an excessive sales mix for rear-wheel drive cars. Both manufacturers' product plans for MY 1987–88 indicate a higher percentage of front-wheel drive cars than for MY 1986.

With respect to CFAS's argument that it is illogical that falling oil prices will have a substantial impact on GM's and Ford's CAFE in MY 1987 and 1988, the agency agrees that the impact is relatively small as compared to the CAFE achieved in MY 1986. However, as discussed below, the impact is substantial as compared to earlier product plans for MY 1987–88 that were made based on expectations of significantly rising gasoline prices.

CFAS's argument about consumer demand for larger engines is incorrect to the extent it suggests that manufacturers have been aided by a drop in demand for larger engines. It is true that engine size in terms of CID has decreased for large and mid-size cars as those cars have been downsized. One of the potential fuel economy benefits of downsizing is that a smaller engine can be substituted without a reduction in performance. However, consumer demand for performance has increased over the past several years, resulting in higher than expected sales of optional, larger engines, and reducing the fuel economy benefits that would otherwise have resulted from downsizing. GM provided data indicating that its performance, as measured by horsepower-to-weight ratio, increased each year between MY 1982 to MY 1986.

As in the MY 1986 proceeding, CFAS also argued that GM's and Ford's projections incorporate "accounting tricks" to lower their CAFE levels. That commenter alleged that EPA test information indicates that a number of car models achieve higher CAFE than projected by those manufacturers.

NHTSA has concluded that there is no basis for CFAS's allegation that GM and Ford have "artificially" lowered their MY 1987–88 CAFE projections by means of "accounting tricks." Among other things, NHTSA requested that EPA review CFAS's claims relating to EPA test data. EPA noted that a number of fuel economy values reported by CFAS were approximately equal to unadjusted label values which use early 1986 model year EPA test car list data. However, EPA pointed out that these values were determined at the start of the model year and that the fuel economy of a model type may change between the time of initial labeling and the time when a CAFE value is calculated. According to EPA, such change may be due to one or all of the following factors: (1) additional vehicle testing is completed after initial labels have been approved, (2) vehicle running changes are implemented throughout the course of the model year, and (3) initial values are calculated based on projected model type sales. Thus, by the time the manufacturer's CAFE is calculated, additional vehicle fuel economy data may have been generated which may affect the model type fuel economy. EPA also stated that differences in data requirements between label and CAFE calculations may also result in discrepancies between fuel economy label values and those fuel economy values used in CAFE calculations. EPA noted that while model type fuel economies require only one set of test data to represent a broad range of vehicles within a model type, a CAFE calculation requires test data which represent at least 90 percent of a manufacturer's total vehicle sales. EPA also indicated that, until the model year in question has ended, only the manufacturer has access to the potential effects of increased testing, running changes and actual customer demand on their final CAFE value. Thus, EPA concluded that "(i)t is quite possible that the manufacturer's projection is more accurate, due to this information, than a projected CAFE based on label values."

NHTSA has used data provided by the manufacturers in all of its CAFE proceedings and knows of no instance where a manufacturer has knowingly provided inaccurate or misleading information. The agency notes that as GM and Ford have updated their CAFE projections during this rulemaking proceeding to reflect the latest available information, they have taken account of new information or plans which improve

their CAFE, as well as new information or plans which result in lower CAFE.

B. Possible Actions to Improve MY 1987–88 CAFE

The possible additional actions which manufacturers can take to improve their MY 1987–88 CAFE above the levels which are currently projected may be divided into four categories: further technological changes (beyond what is contained in their product plans), increased marketing efforts, restricting the sale of their less fuel-efficient cars and engines, and transferring the production of their less fuel-efficient vehicles, or parts of those vehicles, outside of the United States. As discussed below, this fourth possible action would have no effect on overall industry CAFE or on energy conservation, but would raise the manufacturer's domestic CAFE.

1. Further technolgical changes

The ability to improve CAFE by further technological changes to product plans is dependent on the availability of fuel-efficiency enhancing technologies which can be applied by available means within available time.

GM commented that leadtime and other constraints preclude significant technological advances for the 1987 and 1988 model years. Ford similarly commented that introduction of additional technological improvements beyond those presently planned through the late 1980's may not be achievable because of the short leadtimes. It stated that it believes the plans presently in place accurately reflect its CAFE capabilities through the rest of the decade. Chrysler stated that it agrees that it is essentially too late for meaningful technological changes to be effected for even the 1988 model year.

At the outset, NHTSA notes the substantial technological progress that has been made by GM and Ford since EPCA was passed. As the MY 1986 preamble noted, manufacturers have over the past decade reduced average car weight by 1000 pounds, reduced average engine displacement from 288 CID to 177 CID, increased the use of front-wheel drive from seven percent to 64 percent, increased the use of transmissions with overdrive and/or lockup from five percent to 84 percent, and increased the use of fuel-injected engines from five percent to 54 percent.

Now, in light of limited leadtime, NHTSA agrees that it is too late to initiate further major technological improvements for MY 1987–88. For example, once a new design is established and tested as feasible for production, the leadtime necessary to design, tool, and test components such as new body sheet-metal subsystems for mass production is typically 22 to 29 months. Other potential major changes often take longer. Leadtimes for new vehicles are typically at least three years.

In analyzing specific manufacturer capabilities below, however, the agency has considered whether manufacturers have available capacity to increase the penetration of particular technologies.

2. Increased Marketing Efforts

NHTSA addressed the issue of improving fuel economy by additional marketing efforts in the MY 1986 rulemaking. The agency concluded, based on its analysis, that GM and Ford have in the past been, and are now, making efforts to improve the sales of fuel-efficient cars. The agency determined that the manufacturers have undertaken extensive and significant marketing efforts to shift consumers toward their more fuel-efficient vehicles and options. Both GM and Ford have undertaken pricing actions to discourage large car sales and the purchase of optional, less fuel-efficient engines. Below-market financing offerings, cash discounts, and non-cash consumer and dealer incentives were some of the other measures undertaken by Ford and GM to increase their CAFE through marketing actions.

Chrysler commented that GM and Ford have the option of adopting marketing measures to boost sales of their smaller, more efficient vehicles, and shift sales from their older, less efficient models to their more efficient and equally large newer products.

The agency has consistently noted that the ability to improve CAFE by additional marketing efforts, beyond what the manufacturers have already been doing, is relatively small. As a practical matter, marketing efforts to improve CAFE are largely limited to techniques which either make fuel-efficient cars less expensive or less fuel-efficient cars more expensive. Moreover, the ability to increase sales of fuel-efficient cars relates in part to either increasing market share at the expense of competitors or pulling ahead a manufacturer's own sales from the future. A factor which makes it particularly difficult for the domestic manufacturers to increase sales of fuel-efficient cars is the strong competition in that market from the Japanese and other foreign manufacturers. The domestic industry is currently facing new competition in small cars from Yugoslavia, Korea and Brazil. The Japanese, Korean and other foreign manufacturers enjoy a significant cost advantage over the domestic manufacturers. This cost advantage limits the ability of the domestic manufacturers to increase sales of small cars through price reductions, since the Japanese, Korean and other foreign manufacturers will be able to match or exceed any price reduction.

The agency also notes that the fuel efficiency of modern large cars makes it more difficult for full-line manufacturers to sell smaller cars. The reason for this is that there are diminishing returns in terms of fuel economy from purchasing small cars as the fuel efficiency of larger cars increases. Similarly, as gasoline prices have declined, there are diminishing returns from purchasing more fuel-efficient vehicles.

A problem with pulling ahead sales is that the manufacturer's CAFE for subsequent years is reduced. For example, if a manufacturer increases its MY 1987 CAFE by pulling ahead sales of fuel-efficient cars from MY 1988, the MY 1988 CAFE will decrease, compared with the level it would have been in the absence of any pull-ahead sales attributable to marketing efforts. For this reason, a manufacturer cannot continually improve its CAFE simply by pulling ahead sales.

Ford indicated in its MY 1986 mid-model year report that its increased sales of fuel-efficient models/powertrains, beyond what it had earlier projected, was largely attributable to incentive, marketing and pricing programs that were designed to increase its CAFE. In light of Ford's MY 1986 experience, the agency has considered whether additional marketing efforts, beyond what Ford is already planning, should be considered as part of "economic practicability" in setting the MY 1987–88 standards. Among other things, the agency analyzed confidential data provided by Ford concerning the costs and potential fuel economy benefits of extraordinary marketing efforts. Given the enormous costs and relatively small and uncertain potential impact on Ford's CAFE levels, NHTSA has concluded that extraordinary marketing efforts of the type identified by Ford to improve its MY 1987–88 CAFE levels would be inconsistent with economic practicability. This is particularly true since the relative costs for Ford of improving its CAFE by this means would be six times that of improving its domestic CAFE level by converting large cars to imports, a subject which is discussed below. The agency notes here that such outsourcing would result in absolutely no energy conservation benefits but would reduce American jobs. With respect to the

incentives facing Ford for meeting CAFE standards, however, improving its domestic CAFE by outsourcing would not only be far less expensive than extraordinary marketing efforts, but the benefits to its domestic CAFE level would also be certain. Thus, the agency is concerned, based on the factual record of this specific proceeding, that including the potential CAFE effect of the extraordinary marketing programs for MY 1987–88 could encourage Ford to outsource larger car models, thereby reducing U.S. employment.

3. Product Restrictions

Manufacturers could improve their CAFE by restricting their product offerings, e.g., cutting or dropping production of less fuel-efficient car lines or higher performance engines. However, as discussed in the preamble to the MY 1986 final rule, such product restrictions could have significant adverse economic impacts on the industry and the economy as a whole, and could run counter to the congressional intent that the CAFE program not unduly limit consumer choice. The agency took account of similar concerns in 1977, concluding that standards should not be set so high as to necessitate the manufacturers using compliance methods that would result in a substantial sales drop. See 42 FR 33544–45, June 30, 1977.

A number of commenters provided estimates of job losses and cited other deleterious economic effects that they believe would occur if the MY 1987–88 standards remained at 27.5 mpg. For example, the FTC Staff analysis concluded that over 130,000 jobs in the domestic economy would disappear if the standards remained at 27.5 mpg. This conclusion was based on the assumption that GM and Ford can attain CAFE of only 25.9 mpg, other than by product restrictions, and that the two manufacturers could meet the 27.5 mpg standard only by restricting the sales of their large cars in order to make up the difference between 25.9 mpg and 27.5 mpg.

The agency agrees with the FTC Staff analysis that serious economic consequences, including significant job losses, would result if GM and Ford restricted large car production in order to make significant improvements in CAFE.

As in the MY 1986 proceeding, the agency also notes that there is no sharp dividing line between marketing efforts and product restrictions. GM and Ford have already raised the prices of their larger cars and engines as part of their efforts to improve CAFE, although sales of larger, optional engines continued to increase, even as prices have risen. While very large price increases would likely reduce sales of less fuel-efficient vehicles significantly, such increases would amount to product restrictions. The agency believes that expecting manufacturers to make such very large price increases would be inconsistent with Congress' intent that consumer choice not be unduly limited and with the statutory criterion of "economic practicability."

4. Transferring Production of Less Fuel Efficient Cars Abroad

As discussed above, manufacturers must meet fuel economy standards separately for their imported and domestically manufactured fleets. Cars are considered to be domestically manufactured if they have at least 75 percent domestic content. The purpose of this requirement was to attempt to prevent the fuel economy program from directly encouraging the importation of small, fuel-efficient, foreign-produced cars. At the time EPCA was passed, the domestic manufacturers were already importing some fuel-efficient cars, and Congress was concerned that the manufacturers might decide to meet fuel economy standards largely by increasing such imports.

Today, the domestic manufacturers are importing or planning to import substantial numbers of smaller, fuel-efficient cars for reasons unrelated to CAFE. However, the manufacturers could improve their domestic CAFE by transferring the production of their larger, less fuel-efficient vehicles to production facilities outside of the United States, while still maintaining relatively high import CAFE by virtue of their fuel-efficient captive imports.

Ford commented that it has identified an alternative compliance program for MY 1988 by which it could improve its domestic CAFE by 0.6 mpg by sourcing sufficient LTD Crown Victoria and Mercury Grand Marquis components outside the United States to transfer these vehicles into its import CAFE fleet. In Ford's import fleet, those cars would be averaged in with new small cars Ford is planning to introduce, enabling Ford to meet or exceed 27.5 mpg for its import fleet. GM has also indicated that it is considering outsourcing some of its less fuel-efficient cars.

Transferring the production of less fuel-efficient cars abroad would reduce the number of American jobs while having no effect on improving actual fuel economy. As discussed in the NPRM, given the complete absence of energy conservation benefits and in light of a clear congressional intent to avoid having fuel economy standards directly induce manufacturers to increase their importation of foreign-produced cars, NHTSA will not include such actions as part of of its consideration of the actions manufacturers could reasonably take to improve their CAFE.

C. Uncertainties

Consistent with its two prior passenger car CAFE proceedings, the agency believes it is appropriate to consider the significant uncertainties that surround the establishment of CAFE standards and the assessment of projected manufacturer CAFE. Whether it is characterized as "allowance for unforeseen contingencies" (see 42 FR 33548, June 30, 1977) or "providing a slight margin for risks" (see 50 FR 40547, October 4, 1985), NHTSA has traditionally accounted for uncertainties by providing a slight downward adjustment to the CAFE levels that seem achievable in advance of the model years. This is particularly appropriate when these uncertainties result from events that are outside the control of the full-line manufacturers, such as the price of oil, the effect of new tax laws on consumer and business purchasing decisions, and increased imports of small cars by foreign manufacturers. These and other uncertainties are discussed later in this notice.

GM submitted an economic study which concluded that unexpected changes in the price of gasoline and import sales statistically explain approximately two-thirds of that company's past CAFE forecast error. GM argued that this study shows that the most recent declines in gasoline prices could cause its CAFE to fall as low as 25.0 mpg in MY 1987 and 25.5 mpg in MY 1988, and that if errors in forecasting import volumes are also taken into account, its CAFE could fall to 24.8 mpg in MY 1987 and 25.2 mpg in MY 1988. That company stated that if its current CAFE estimates for MY 1987–88 are affected by gas price changes to the same degree as previous one- and two-year forecasts, its CAFE will deteriorate to 25.4 mpg in MY 1987 and 25.8 mpg in MY 1988.

As indicated above, Ford provided ranges of CAFE projections for MY 1987–88, with the lower ends of the ranges reflecting risks. Ford's low end MY 1987 projection of 26.3 mpg and low end MY 1988 projection of 25.5 mpg reflect potential sales mix shifts. These include potential increases in larger car sales, due to drops in gasoline prices, and the possibility of increasing Korean and Japanese car sales. Ford submitted the results of an economic study of fuel

price forecast errors and errors in the estimation of the small car market share for the industry which concluded that a 20 percent error in fuel price is typically associated with a nine percent error in small car share of the market. Ford stated that a shift of this magnitude could affect its MY 1987–88 CAFE projections by approximately 0.5 mpg.

CFAS argued that NHTSA has grossly overestimated market uncertainty with respect to consumer demand and falling gasoline prices and the impact of foreign competition. CFAS's comments discussed above with respect to the market mix assumed by GM's and Ford's projections also relate to this issue. With respect to foreign competition, CFAS argued that the rising value of the yen against the dollar has begun to substantially raise the price of Japanese cars, reducing the Japanese cost advantage. CFAS also argued that imports from Korea and Yugoslavia will not have a significant market penetration in the 1987–88 model years.

As discussed in the section of this preamble entitled "Determining the MY 1987–88 Standards," NHTSA recognizes that manufacturer CAFE projections are subject to uncertainties. In the timeframe of this rulemaking, the major uncertainty relates to market mix.

While NHTSA believes the economic models submitted by GM and Ford are useful in analyzing the historical effects of lower gasoline prices and increased imports on CAFE, and in demonstrating that these factors can result in lower CAFE, it does not consider the analyses to be valid for predicting specific MY 1987–88 CAFE values. Among other things, the agency notes that the MY 1986 experience demonstrates that the models are unreliable as predictive tools. Both models would have predicted that GM and Ford would achieve much lower CAFE in MY 1986 than they projected, due to the lower-than-expected gasoline prices. As discussed above, however, this did not occur. Also, the GM model shows that when examining estimates of import sales for the succeeding one-to-two-year time period, there was no statistical significance between errors in forecasts of import sales and of CAFE levels.

The agency also notes that the models are inaccurate in that other factors may have a constraining effect on CAFE changes. For example, very substantial changes in passenger car mix, beyond present plant capacity, would be required for reductions of the magnitude cited by GM to occur.

In addition, there are several shortcomings with GM's statistical model. First, as the author cautions, the data include multiple estimates within calendar years and model years. Therefore, the basic assumption of independent, normally distributed errors for significance testing is not met. Also, there is a question as to whether data consisting of "errors in estimation" are actually amenable to standard statistical analysis. Estimates of future gas prices and of import sales several years hence are of necessity based on a large degree of subjective judgment. Such data lack objectivity and may embody systematic biases.

Finally, the agency notes that GM's latest projections and underlying product plans for MY 1987–88, submitted to the agency in July 1986, were made at a time after the substantial drop in gasoline prices had occurred and thus reflect the current very low price of gasoline, and expectations that prices will remain low for at least the next couple of years.

While NHTSA does not believe that the GM and Ford models are reliable for predicting specific CAFE values, the directional conclusions of the models are clearly correct. As gasoline prices decrease, the costs of operating larger cars and of greater performance, decrease. Thus, all other things being equal, consumer demand for larger cars and greater performance increases. Similarly, as sales of smaller, more fuel-efficient imports increase, sales of domestic smaller cars decrease. NHTSA believes that the GM and Ford models do help show the sensitivity of CAFE estimates to changes in certain variables, particularly gasoline prices, everything else being equal.

D. Manufacturer-Specific CAFE Capabilities

In analyzing manufacturer-specific CAFE capabilities, the agency has focused on GM and Ford, because they have the lowest projected MY 1987–88 CAFE levels among manufacturers with a substantial share of the market.

As discussed above, GM projects that it can achieve CAFE levels no higher than 26.3 mpg for MY 1987 and 26.9 mpg for MY 1988, and Ford projects that it can achieve CAFE levels no higher than 27.1 mpg in MY 1987 and 26.3 mpg in MY 1988. Since Ford's stated maximum capability for MY 1987 is 0.8 mpg higher than that of GM, the agency focused on GM in determining the maximum feasible average fuel economy level for that model year. Conversely, since GM's stated maximum capability for MY 1988 is 0.6 mpg higher than that of Ford, the agency focused on Ford in determining the maximum feasible average fuel economy level for that model year. As discussed in the section of the preamble entitled "Determining the MY 1987–88 Standards," the agency believes that setting standards above the capabilities of either Ford or GM would not be in keeping with Congress' direction that standards be set based on industrywide considerations, given the large market share of each company.

GM: NHTSA has analyzed GM's MY 1987 maximum CAFE projection and underlying product plan. The only additional technological action identified by the agency that GM could take to improve its CAFE within the available leadtime would be to increase the installation rates of 4-speed automatic transmissions. GM has available capacity to install a higher number of 4-speed automatic transmissions in certain mid-size cars, and the agency has concluded that doing so would not have a significant effect on sales. However, such increases in 4-speed automatic transmission usage would add less than 0.1 mpg to GM's MY 1987 CAFE. The agency has concluded that other changes, consistent with consumer acceptability, to improve fuel economy are not feasible for GM's MY 1987 fleet. Therefore, NHTSA concludes that GM's maximum CAFE capability is no higher than 26.3 mpg to 26.4 mpg. As discussed elsewhere in this preamble, that figure is subject to uncertainties which could lower GM's MY 1987 CAFE level.

Since NHTSA focused on Ford in determining the maximum feasible average fuel economy level for MY 1988, the agency did not calculate a specific CAFE capability for GM. However, the agency does conclude that GM's MY 1988 CAFE capability exceeds that of Ford.

Ford: NHTSA has analyzed Ford's MY 1988 maximum CAFE projection and underlying product plan. One of the reasons Ford's projected CAFE declines between MY 1987 and MY 1988 relates to the timing of model years. Under the statute and applicable regulations, manufacturers have a degree of flexibility concerning the timing of model years for individual models. Thus, the model year for different models may vary in length. The agency emphasizes that there is nothing wrong with manufacturers utilizing this flexibility, whether for competitive reasons, i.e., the timing of new models, or for compliance flexibility. For purposes of considering amending an existing standard, however, NHTSA does not believe it would be appropriate to consider extended production runs. While extended production runs for certain vehicles can result in lower or higher CAFE levels for a particular model year, those effects are offset in the opposite

directions in the preceding or subsequent model year. Thus, changes in CAFE attributable to extended production runs do not reflect a manufacturer's CAFE capability but are instead simply a matter of accounting within the control of the manufacturer. Just as the agency does not consider the ability of manufacturers to improve their CAFE by extending the model year of their more fuel-efficient cars, the agency will not consider decisions by manufacturers to extend the model year of their less fuel-efficient cars as indicating a reduction in their fuel economy capabilities.

For purposes of analyzing Ford's MY 1987–88 capabilities in the context of standard-setting, NHTSA is thus adjusting that company's projections to "normalize" the timing of the model years. In doing so, the agency emphasizes that (1) there is nothing wrong with Ford's planned actions in this area, and (2) that Ford actually can, if it chooses to do so, specify the model year for the vehicles in question consistent with the agency's adjustment. The effect of the adjustment is to lower Ford's MY 1987 projection by 0.2 mpg to 26.9 mpg and to raise Ford's MY 1988 projection by 0.1 mpg to 26.4 mpg.

Since NHTSA focused on GM in determining the maximum feasible average fuel economy level for MY 1987, the agency did not calculate a specific CAFE capability for Ford. However, taking account of the model year adjustment discussed above, the agency does conclude that Ford's MY 1987 capability exceeds that of GM.

For MY 1988, the agency has not identified any additional technological actions that Ford could take within the available leadtime to improve its CAFE level. No other changes, consistent with consumer acceptability, to improve fuel economy are feasible for Ford's MY 1988 fleet. Therefore, NHTSA concludes that Ford's maximum MY 1988 fuel economy capability is no higher than 26.4 mpg. As discussed elsewhere in this preamble, that figure is subject to uncertainties which could lower Ford's MY 1988 CAFE level.

DOE commented that it views a number of technologies as cost-effective for MY 1987–88, and that NHTSA should evaluate the possibility of additional uses of these technologies in the MY 1987–88 timeframe. These include front-wheel drive, aerodynamic improvements, material substitution, four-speed automatic transmissions, and fuel injection.

With respect to front-wheel drive, DOE stated that this technology has been adopted in both large and intermediate cars by GM, but that company has continued sales of older rear-wheel drive models and is expected to retain most of these models through 1988. DOE stated that Ford has no front-wheel drive models in the large size class. DOE commented that conversion to front-wheel drive could provide a 12 percent increase in fuel economy for a vehicle of constant interior volume and that at $1.00 a gallon for gasoline the technology appears cost-effective, and at $0.75 approximately cost-neutral. That commenter asserted that consumer acceptance of front-wheel drive has been very favorable, stating that where both rear- and front-wheel drive models of similar size have been offered by GM, the front-wheel drive model has been strongly favored. DOE indicated that one aspect of front-wheel drive that could limit its acceptability is trailer towing, and suggested that NHTSA develop data concerning how many large cars are used for towing.

NHTSA requested that GM and Ford provide data concerning large car towing use. GM stated that it does not offer trailer hitches or optional trailer-towing packages on passenger cars as factory installed equipment and that it was unaware of data defining the percentage of passenger cars or trucks that tow trailers. Ford submitted the results of a study indicating that less than one percent of its small car owners report trailer towing usage, while three percent of Crown Victoria buyers and five percent of Grand Marquis buyers report trailer towing. With respect to optional trailer towing packages, Ford reported MY 1985 factory installation rates of 0.1 to 0.2 percent on mid-size Thunderbirds and Cougars and installation rates of 2.3 to 3.3 percent on large cars. Thus, the limited data available to NHTSA indicate that trailer towing is not a significant purchase consideration for the great majority of larger car buyers.

GM commented that front-wheel-drive provides little or no direct fuel economy benefit but merely facilitates "downsizing." GM argued that since it has already downsized all of its mid-size and full-size sedans, including the rear-wheel-drive "B," "D," and "G" cars, the conversion of these cars to front-wheel drive would yield at best a relatively modest fuel economy benefit. That company provided comparisons between several cars with different engines and transmissions in arguing that the fuel economy benefit of front-wheel-drive is overshadowed by other factors such as engine size. NHTSA does not agree with GM's assertion that conversion of cars to front-wheel drive yields at best a relatively modest fuel economy benefit. When front-wheel-drive vehicles are compared to rear-wheel-drive vehicles of equal interior roominess, performance and transmission class on a systematic basis, the front-wheel-drive vehicles achieve 10 to 15 percent greater fuel efficiency.

GM and Ford product plans indicate a higher percentage of front-wheel drive cars for MY 1987–88 than for MY 1986. While the figures for MY 1987–88 are subject to a claim of confidentiality, the agency can state that GM's front-wheel drive usage in MY 1986 is approximately 69 percent while Ford's is 55 percent. Given that application of front-wheel drive entails entire redesigns of cars, NHTSA believes that front-drive usage beyond planned levels would not be feasible for GM and Ford in MY 1987–88.

With respect to aerodynamic improvements, DOE commented that this technology provides a two- to three-percent benefit in fuel economy for a 10-percent reduction in drag coefficient, while being very cost-effective even at fuel prices of $0.75 a gallon. DOE stated that while Ford has converted all but the "Panther" (Crown Victoria/Grand Marquis/Town Car) series of cars to aerodynamic designs, GM's large and intermediate cars have relatively high drag coefficients, leaving room for improvement.

In general, both GM and Ford plan additional aerodynamic improvements as new car designs are introduced or significant sheet metal changes are made. Using average dynamometer power absorber unit (PAU) values as a surrogate for aerodynamic drag, both manufacturers project improvements in this area by MY 1988. Since significant aerodynamic drag reductions are generally achieved only when new cars are introduced or major sheet metal changes are made, the agency concludes that it is not feasible for GM and Ford to introduce significant additional improvements in this area beyond those that are already planned.

DOE commented that the current technologically feasible level of material substitution requires use of high strength low alloy steel (HSLA) and, in some applications, plastics. DOE stated that material substitution is cost-effective with gasoline at $1.00 a gallon but marginal at $0.75 a gallon. DOE asserted that Ford lags behind GM in this technological area, arguing that both the "Panther" and Taurus/Sable are approximately eight percent heavier than their counterparts from GM and Chrysler. According to DOE, a 250 pound weight reduction in the Ford Panther would result in a 3.9 percent benefit to fuel economy, while a 250

pound weight reduction in the Taurus/Sable would result in a fuel economy benefit of 5 percent.

While Ford may be able to improve its CAFE by additional material substitution in the future, there is insufficient leadtime to make sufficient improvements in this area to significantly affect CAFE for MY 1987–88.

DOE also commented that four-speed automatic transmissions and fuel injection are already in use in several models at both Ford and GM, indicating that both technologies are economically practicable and accepted by the consumer. DOE indicated that GM has stated that these technologies will be used in only a few additional models in the large and intermediate size classes in MY 1987–88, while Ford is expected to use both technologies in all applicable large and intermediate cars. DOE stated that NHTSA should consider the ability of GM to introduce these technologies on the remainder of their large/intermediate cars in setting standards for MY 1987–88.

In general, both GM and Ford are rapidly replacing carburetors with either throttle-body fuel injection or individual port fuel injection in their fleets. With respect to four-speed transmissions, the agency concludes, as it did in the MY 1986 proceeding, that the additional cost of four-speed transmissions over three-speed designs would significantly exacerbate the production cost differential between domestic and Japanese small cars, and therefore be impracticable. As indicated above, however, the agency has considered GM's ability to increase the penetration of this technology for their large/intermediate cars in MY 1987–88.

GM commented that every one of its full-size and mid-size cars is available with a four-speed automatic transmission, but argued that in the mid-size class four-speed transmissions may not always be cost-effective for the consumer. In support of this assertion, GM did not provide data concerning the actual costs and benefits of its four-speed transmissions but instead mixed a variety of estimates from NHTSA and itself concerning factors relevant to costs and benefits. Based on these various estimates, GM concluded that the average owner would save about $108 in fuel expenses over the expected lifetime of the car, as compared to costs of $115 to $165 for a four-speed automatic transmission.

The agency continues to believe that four-speed transmissions are cost-effective. The cost figures used in the PRIA and cited by GM were based on manufacturer data submitted during the late 1970's. While the agency has not conducted an independent analysis of the cost of four-speed transmissions, it has sponsored research showing that the consumer cost for a three-speed transmission alone for a 1980 Chevrolet Citation is $284 in 1982 dollars. The agency does not believe that the addition of a fourth gear could increase the cost of the transmission by more than 50 percent. The agency also notes that the four-speed offers other advantages, including reduced noise and vibration at highway speed and enhanced acceleration (as currently being applied). Moreover, NHTSA notes that this technology has long been identified by the agency to be an economically practicable method of improving fuel efficiency.

While, as discussed above, NHTSA has concluded that GM can install a higher number of 4-speed transmissions in certain mid-size cars for MY 1987, inclusion of this factor in GM's capability adds less than 0.1 mpg to that company's CAFE.

DOE submitted a report prepared by one of its contractors, Energy and Environmental Analysis, Inc. (EEA), which included projections of GM's and Ford's MY 1987–88 CAFE levels. The November 1985 report projected that CM could achieve MY 1987–88 CAFE levels of 27.8 mpg and 29.2 mpg, respectively, and Ford 27.75 mpg and 28.05 mpg.

DOE revised these projections to account for the following four factors: (1) fuel prices could be in the $0.70 to $0.90 per gallon range in 1987 and 1988, (2) the Japanese voluntary import agreement may continue through MY 1988, (3) GM, Ford and Chrysler are pursuing aggressive captive import strategies that may cause declines in domestic small car sales, and (4) product plan revisions may cause shifts in strategy for specific carlines. DOE concluded that the fuel price decline would primarily increase consumer demand for acceleration performance, rather than significantly affecting size class mix. DOE estimated the change in fuel price projections would reduce manufacturers' CAFE levels by 0.5 to 0.7 mpg. With regard to continued export restraint by Japanese manufacturers, DOE concluded that the potential domestic manufacturer CAFE increases due to capturing a larger share of the small car market will be offset by "aggressive" captive import strategies. On the issue of product plan changes, DOE stated that Ford is moving to reclassify its large cars as imports for MY 1988, which will increase that company's CAFE by 1.4 mpg. DOE also stated that GM "has delayed its GM-10 body coupe for 1988 reducing fuel economy by 0.3–0.4 mpg." With all of these changes, DOE concluded that GM can achieve CAFE of 27.1 to 27.3 mpg in MY 1987 and 28.1 to 28.4 mpg in MY 1988, and that Ford can achieve CAFE of 27.0 to 27.2 mpg in MY 1987 and 28.9 to 29.1 mpg in MY 1988. DOE noted that the GM estimates include the GM-Toyota joint venture car (the Chevrolet Nova) as a domestic car.

NHTSA has analyzed the EEA report and concluded that it does not provide a basis for determining that GM and Ford have higher CAFE capabilities than those discussed above. As part of this analysis, the agency compared the EEA projections to those of the manufacturers.

For GM, NHTSA compared the EEA MY 1987–88 projections to those made by GM in April 1986. Since, as discussed below, the agency separately considered the reasonableness of the reductions in GM's projections between April 1986 and July 1986, it concluded that it was unnecessary to re-perform the analysis and directly compare the EEA projections to GM's July 1986 projections. Thus, the GM projections discussed in this section below represent that company's April 1986 projections rather than the July 1986 projections discussed above.

EEA's MY 1987 projection of 27.1 to 27.3 mpg for GM is higher than that company's April 1986 projection of 26.4 mpg. One reason for the difference is that EEA assumes that the GM-Toyota joint venture car produced by New United Motor Manufacturing, Inc. (NUMMI), the Chevrolet Nova, is included in GM's domestic fleet. Currently, NUMMI reports its CAFE separately from GM's domestic fleet. For the same reasons discussed in the MY 1986 proceeding, NHTSA concludes that it would be too speculative for the agency to count this vehicle in GM's domestic CAFE. See 50 FR 40534–40535. Removing these vehicles from the EEA projection would reduce it by 0.3 mpg. Differences in EEA's and GM's assumptions concerning model mix account for another 0.1 mpg of the difference. The remaining 0.3 to 0.5 mpg difference between the GM and EEA projections is due primarily to GM projecting lower carline fuel economy levels than EEA.

EEA's MY 1988 projection of 28.1 to 28.4 mpg for GM is also higher than that company's April 1986 projection of 27.4 mpg. As in the case of MY 1987, one reason for the difference is that EEA assumes the Nova is included in GM's domestic fleet. Removing these vehicles from the EEA projection would reduce it by 0.3 mpg. Differences in assumptions

concerning the GMIO car account for 0.2 to 0.3 mpg of the difference. GM's April 1986 projection reflected a sales mix biased more toward fuel-efficient models than the EEA sales mix. The impact of this assumption would raise the EEA CAFE projection by 0.2 mpg. The remaining 0.4 to 0.6 mpg difference between the two projections primarily reflects GM projecting lower carline fuel economy levels than EEA.

For Ford, the EEA MY 1987 projection of 27.0 to 27.2 mpg is essentially the same as Ford's high end projection. However, there are a number of differences in the underlying product plans. Among other things, Ford's projected sales mix among models results in a 0.3 mpg higher CAFE level than the assumed EEA mix. The different sales mix is partially attributable to the model year timing issue, discussed above. This 0.3 mpg gain is offset, however, by other factors. For one thing, EEA assumed that an adjustment it made to Ford's MY 1986 CAFE, raising Ford's CAFE by 0.16 mpg, carries over into MY 1987. The adjustment in question involved reducing Ford's stated technological risk by half. As discussed in the MY 1986 proceeding, NHTSA evaluated Ford's MY 1986 risks and saw no reason to arbitrarily reduce them by half. Moreover, it is incorrect to assume that any 0.16 mpg "gain" through reducing risks associated with MY 1986 CAFE projections carry forward into subsequent years. For example, some of Ford's MY 1986 risk related to likely delays in the introduction of certain technology, which has now been introduced and which is already reflected in Ford's MY 1987 projection. Ford's MY 1987 projection and underlying product plan also reflect a number of factors not taken into account by EEA.

EEA's MY 1988 projection of 28.9 to 29.1 mpg for Ford is substantially above Ford's high end MY 1988 projection of 26.3 mpg. The largest reason for the difference is that EEA assumes that Ford will reduce the domestic content of its "Panther" cars, i.e., Crown Victoria, Grand Marquis, and Town Car, in order to include the cars in its import fleet. While, as indicated above, Ford is considering such outsourcing of the Crown Victoria and Grand Marquis as part of an alternative compliance program for MY 1988, it has not made the decision to carry out that program. Moreover, Ford has never indicated that it is considering outsourcing the Town Car. Another reason for the difference in the EEA and Ford projections is different sales mix assumptions, in part reflecting the model year timing issue. Other differences between the EEA and Ford projections include EEA's continuing to carry forward the 0.16 adjustment it made with respect to mix, a slight difference in the EPA test adjustment credit, additional technological risks identified by Ford that were not taken into account by EEA, and the projection by Ford of lower fuel economy levels for each carline than EEA. Among other things, the EEA projection does not reflect a decision by Ford not to continue a certain technological change, for reasons related to consumer acceptability.

NHTSA's analysis of EEA's projections does not indicate any additional means by which GM and Ford could improve their MY 1987–88 CAFE levels, beyond those already taken into account above, or any reason why the manufacturers' assumptions concerning such things as carline fuel economy levels or mix are incorrect. The agency notes that much of the difference between EEA's and GM's and Ford's projections reflects the fact that the companies have more up-to-date data concerning the fuel economies their various carlines will achieve.

Manufacturer Compliance Efforts

While there is now insufficient leadtime for GM and Ford to initiate further significant technological improvements to achieve CAFE of 27.5 mpg in MY 1987–88, the standards have been in existence since 1975. Thus, as part of deciding whether to exercise its discretion to reduce the standards to the maximum feasible average fuel economy level, NHTSA has evaluated whether the manufacturers made sufficient efforts through September 1986 to meet the standard.

As discussed in the MY 1986 proceeding and noted above, the agency does not consider it appropriate to judge each and every manufacturer product action by 20–20 hindsight. Rather, in assessing the sufficiency of the manufacturers' fuel economy efforts, it is necessary to take account of the information available to the manufacturers at the time product decisions were being made.

Much of the analysis NHTSA conducted with respect to this issue in the MY 1986 rulemaking is relevant to this proceeding. Among other things, the agency discussed the impressive progress GM and Ford have made since the mid-1970's in improving their fuel economy. The agency concluded for purposes of the MY 1986 standard that GM and Ford had made sufficient efforts through September 1985 to improve their fuel economy to comply with the Cost Savings Act, but that those efforts had been overtaken by unforeseen events whose effects could not be overcome by available means within the time available. In particular, due to unexpected declines in the price of gasoline, there had been a substantial shift in expected consumer demand toward larger cars and larger engines, and away from the sales mixes that had been anticipated by GM and Ford for that model year.

As indicated above, the agency's determinations in the MY 1986 proceeding concerning sufficiency of efforts are not determinative with respect to MY 1987–88. Thus, the agency has evaluated this issue for those model years.

As part of evaluating whether GM and Ford made sufficient efforts to achieve a 27.5 mpg CAFE, the agency has evaluated changes in MY 1987–88 projections submitted to it by GM and Ford since late 1983. NHTSA used the 1983 projections as the baseline for its evaluation for several reasons. First, both companies projected in 1983 that they would exceed 27.5 mpg CAFE in MY 1987–88. Thus, the agency wanted to determine why the companies are now unable to implement their earlier product plans. Also, by late 1983, gasoline prices had been declining for two years, and the distribution of vehicle sales was roughly comparable to today's levels. Thus, sales patterns at that time did not reflect the high consumer demand for smaller cars and cars with less performance that was typical of the 1980–81 period when fuel prices and consumer demand for fuel efficiency were at their peak.

The approach taken by NHTSA in evaluating the changes in fuel economy projections is similar to that recommended by DOE. That commenter suggested using the 1983 projections as a reference, "since both Ford and GM had forecasts exceeding 27.5 mpg in 1987 and 1988," and "the 1983 submissions also provide adequate leadtime for introducing new technologies as products in 1987 and 1988."

In conducting its evaluation, NHTSA selected several major projections for MY 1987–88 submitted by GM and Ford since 1983. While GM and Ford submitted several other projections as well, the agency concluded that the ones it selected would enable it to understand the major trends and reasons for the decline in projected CAFE.

For purposes of consistency, the agency deleted EPA test credit adjustments in analyzing the different

projections, since slightly different assumptions about the magnitude of the adjustments were made by GM and Ford at different times. Thus, the projections discussed in this section, below, are slightly lower (by 0.1 to 0.3 mpg) than the numbers in the manufacturers' submissions.

GM: GM projected in December 1983 that it could achieve a CAFE of 27.6 mpg for MY 1987. In a carryback plan dated November 1984, GM raised its MY 1987 projection to 28.1 mpg. A mix shift toward more fuel-efficient models accounts for 0.3 mpg of the increase. A certain product plan change accounts for the other 0.2 mpg increase.

Between November 1984 and February 1985, GM lowered its MY 1987 projection by 0.2 mpg, to 27.9 mpg. Mix effects account for 0.1 mpg of the decline, while a product plan change and miscellaneous reasons account for the other 0.1 mpg decline.

GM lowered its MY 1987 projection by an additional 1.7 mpg between February 1985 and April 1986. Almost half, about 0.8 mpg, of the decline relates to changes in vehicle mix. Model mix changes account for 0.5 mpg of the decline, while engine mix changes account for 0.3 mpg of the decline. The remaining 0.9 mpg CAFE decline is distributed among a large number of items. About 0.4 mpg is due to GM achieving lower-than-anticipated fuel economy levels on certain engines, 0.1 mpg is due to GM not achieving expected gains related to a certain technology, 0.1 mpg is associated with increased axle ratios on several carlines, and 0.1 mpg relates to a one-year deferral of a technological change due to an inability to complete tooling in a timely manner. The remaining 0.2 mpg decline is attributable to a number of minor factors, each affecting GM's CAFE by well under 0.1 mpg.

Between April 1986 and July 1986, GM lowered its MY 1987 projection by an additional 0.1 mpg, due to a number of reasons, each of which has only a small impact on CAFE.

For MY 1988, GM projected in December 1983 that it could achieve a CAFE of 29.3 mpg. While the agency does not have a November 1984 projection from GM for MY 1988 as it does for MY 1987, GM's February 1985 projection for MY 1988 was still as high as 29.2 mpg. Thus, as with GM's MY 1987 projection, the major decline in GM's projected MY 1988 CAFE occurred after February 1985.

Between February 1985 and April 1986, GM lowered its MY 1988 projection by 2.0 mpg. Relatively little of this change relates to mix effects. There is only a slight loss, 0.1 mpg, due to engine mix changes. A certain product plan change accounts for a 0.2 mpg decline in CAFE, minor changes in average test weights result in a 0.1 mpg decline, lower than expected gains related to transmissions result in a 0.1 mpg decline, lower than expected gains related to tires result in a 0.1 mpg decline, increased axle ratios result in a 0.2 mpg decline, deferring certain plans relating to technology due to, among other things, durability concerns, results in a 0.2 mpg decline, a slowdown in the application of a certain technology to avoid disrupting production capacity results in a 0.1 mpg decline, and miscellaneous technical changes result in a 0.1 mpg decline. The remaining 0.8 mpg decline appears to be due almost exclusively to engines achieving lower than anticipated fuel economy levels.

Between April 1986 and July 1986, GM lowered its MY 1988 projection by an additional 0.5 mpg. The most significant factors accounting for this reduction include mix changes, the inability to make certain product plan changes as fast as once thought possible, increased test weight for certain cars, and changes related to increasing performance.

Ford: For MY 1987, Ford projected in October 1983 that it could achieve a CAFE of 29.3 mpg. Between October 1983 and December 1984, Ford lowered its projection by 0.8 mpg, to 28.5 mpg. Only about 0.1 mpg of the drop is attributable to carline mix shifts. Failure to achieve anticipated gains from engine programs accounts for 0.4 mpg of the decline, and weight increases in certain planned carlines contribute 0.3 mpg to the decline. Net increases in average dynamometer power absorber settings account for a 0.1 mpg decline. Minor shifts in engine mix and applications offset 0.1 mpg of the decline.

In February 1985, Ford projected a MY 1987 CAFE of 28.6 mpg. While this projection was only slightly different from its December 1984 projection, 0.1 mpg higher, there were a number of major changes in Ford's product plan. One product plan change accounts for a 0.1 mpg gain, certain marketing actions account for a 0.3 mpg gain, miscellaneous reasons account for another 0.1 mpg gain, a deletion of technology in certain cars accounts for a 0.2 mpg loss, and a change related to model year timing results in a 0.2 mpg loss.

Between February 1985 and May 1986, Ford lowered its MY 1987 projection by 1.7 mpg, to 26.9 mpg. Mix shifts, including engine mix shifts, account for 0.6 mpg of the decline. Changes in dynamometer power absorber settings, attributable to both new test information and a draft EPA advisory circular concerning coastdown testing, account for an additional 0.5 mpg decline. A decision by Ford not to include the potential effects of extraordinary marketing and incentive programs in its basic projections accounts for 0.3 mpg of the decline. Newer assessments of fuel economy data account for another 0.3 mpg of the decline. A number of other minor changes, each having an impact of less than 0.1 mpg, offset each other. These include minor losses due to test weight increases, losses due to axle and transmission final drive ratio changes, and gains due to reductions in anticipated technical risks.

For MY 1988, Ford projected in October 1983 that it could achieve a CAFE of 29.0 mpg. Between October 1983 and December 1984, Ford lowered its projection by 1.5 mpg, to 27.5 mpg. The most significant reason for this decline, causing a 1.0 mpg decline, is a mix shift away from smaller cars toward larger cars. This is attributable to certain product plan changes and model year timing. Increased weight on certain planned carlines accounts for an additional 0.3 mpg decline. Increases in projected dynamometer power absorber settings cause a 0.2 mpg fuel economy decline. Lower than anticipated fuel economy gains on certain engines cause a 0.3 mpg decline. Minor engine mix shifts and changes in engine applications offset part of these declines, by 0.1 mpg. Also, a number of miscellaneous changes also partially offset the declines, adding 0.2 mpg to Ford's CAFE.

Between December 1984 and February 1985, Ford raised its MY 1988 projection by 0.1 mpg, to 27.6 mpg. A product plan change adds 0.1 mpg to Ford's CAFE, and certain marketing actions add 0.2 mpg. These gains are partially offset by a deletion of technology, which causes a 0.2 mpg decline.

Between February 1985 and May 1986, Ford lowered its MY 1988 projection by 1.4 mpg, to 26.2 mpg. Mix effects cause a 0.2 mpg decline, changes in dynamometer power absorber values account for a 0.4 mpg decline, Ford's decision not to include the potential effects of extraordinary marketing and incentive programs in its projections accounts for a 0.2 mpg decline, and newer assessments of fuel economy data account for a 0.3 mpg decline. An additional 0.1 mpg decline is attributable to slight increases in weight on certain vehicles. Minor changes in axle ratio and transmission final drive ratios cause a 0.1 mpg decline. The remaining 0.1 mpg CAFE decline is

caused by a number of miscellaneous factors.

In evaluating the reasons for changes in GM's and Ford's MY 1987–88 CAFE projections since late 1983, it is apparent that both manufacturers are generally still planning to apply the same technologies to their fleets as planned in late 1983. The two major reasons for the decline in GM's CAFE projections have been net engine and model mix shifts, and engine and transmission improvement programs not yielding projected gains. The great majority of the factors reducing Ford's CAFE projections have been due to net shifts in projected sales for models and engines, engine efficiency improvements not yielding projected gains, and new models not meeting initial weight targets. Thus, the major reasons for the decline in both GM's and Ford's MY 1987–88 CAFE projections have largely been beyond those companies' control.

As indicated above, Chrysler alleged that GM and Ford chose corporate strategies that emphasized short term profit maximizations over a longer term strategy of meeting the law. That company cited past and current decisions by GM and Ford to continue selling what it termed "older technology rear wheel drive cars," and listed a number of technological improvements which it argued GM and Ford could have taken to meet the standards within the available time. Chrysler specifically cited, in part from the PRIA, refinement of the basic discrete ratio automatic transmission and its further penetration into the fleet, additional weight savings, material substitution, refinement of aerodynamic drag, engine modifications, and additional front-wheel drive. That commenter argued that the agency had not addressed "the reasons why GM and Ford failed to make the technological improvements identified as feasible by the agency," or clearly acknowledged that "the question is whether the changes were economically practicable if begun on a timely basis, not whether they are still practicable today." Chrysler also argued that its experience demonstrates that a 27.5 mpg standard is feasible, and that a prudent manufacturer would build a margin of error into its product plans for unforeseen circumstances.

Many of the issues raised by Chrysler were also raised by that company in the MY 1986 proceeding. Much of the agency's discussion of Chrysler's comments in that proceeding remains relevant.

First, the legislative history of the Cost Savings Act clearly indicates that NHTSA has the authority to reduce fuel economy standards. The determination of maximum feasible average fuel economy level is made as of the time of the amendment. The agency has emphasized, however, that it would not reduce a standard if a current inability to meet the standard simply resulted from manufacturers previously declining to take reasonable steps to improve their average fuel economy as required by the Act.

With respect to Chrysler's argument that its experience demonstrates that a 27.5 mpg standard is feasible, the primary reason that GM's and Ford's CAFE's are lower than Chrysler's is that Chrysler does not compete in all the market segments in which GM and Ford sell cars. Unlike GM and Ford, Chrysler does not offer any vehicles which are defined by EPA as "large cars" or "large station wagons." These vehicles, which account for 20 to 25 percent of Ford's and GM's sales, are generally less fuel-efficient than the size cars Chrysler sells. As discussed in the MY 1986 proceeding, Chrysler vehicles often have fewer fuel economy enhancing technologies than those of GM or Ford. While a particular manufacturer may choose to comply with fuel economy standards by various strategies, including not producing large cars, the agency would not consider standards which require full-line manufacturers to stop producing large cars to be consistent with the statutory criterion of economic practicability, since such standards would unduly restrict consumer choice.

In February 1985, both GM and Ford projected that they would meet or exceed a 27.5 mpg CAFE in MY 1987–88. Since that time, both manufacturers' CAFE projections have fallen, for reasons largely beyond their control. Given the timing, the manufacturers have had insufficient leadtime to make major technological changes in their product plans to offset the declines in their projected CAFE. For example, Chrysler's comment stated that "(i)t is important to recognize that the leadtime required to implement these improvements in engines, transmissions, aerodynamics and rolling resistance, is usually three to four years."

CFAS, as well as Chrysler, focused on decisions by GM and Ford to continue selling cars that they once planned to delete. As the agency stated in the MY 1986 proceeding, the fact that GM and Ford may at one time have considered deleting certain models does not commit those manufacturers to now do so. Manufacturers' product plans are constantly changing over time in response to market conditions. Given the dynamic nature of the market, what is economically practicable at one time may not be so at another.

While Chrysler argued that the changes in market conditions on which GM and Ford base their present CAFE difficulties were plainly in evidence as long ago as 1982, the record is clear, as discussed in the MY 1986 proceeding, that the drop in gasoline prices during the early 1980's was expected to be temporary. See 50 FR 40541–40542. For example, converting past gasoline price forecasts to constant 1985 dollars, Data Resources, Inc. (DRI) forecast in the spring of 1983 that gasoline would cost $1.35 in 1986, $1.41 in 1987 and $1.45 in 1988. In the winter of 1983–84, DRI was still forecasting that gasoline would cost as high as $1.33 in 1986 and 1987, and $1.38 in 1988. By comparison, DRI forecast in May of 1986 that gasoline would cost $0.91 in 1987 and $0.92 in 1988.

NHTSA has not concluded, however, that a decision by a manufacturer to continue selling certain cars indefinitely, without redesigning the cars to incorporate new technology, is reasonable under all circumstances. As a general matter, if application of fuel efficiency enhancing technology is required to meet fuel economy standards and is economically practicable and not inconsistent with the other factors of section 502(e), the manufacturers must make such changes.

The agency believes, however, that several factors are relevant to GM's and Ford's decisions to continue the sale of models that they once planned to delete. First, GM and Ford did not rely on the discontinuation of models to avoid making technological changes and then request that the CAFE standards be reduced in order to avoid having to carry out their plans. Rather, as is clear in the record, GM and Ford made their decisions in response to changes in consumer demand. Indeed, as noted in the preamble for the MY 1986 final rule, Chrysler has acknowledged doing the same type of thing.

Second, by the time GM and Ford made their decisions to continue the sale of certain models, there was insufficient time to design new replacement models or make significant technological improvements to the older models. In some instances, the manufacturers had nothing in their product plans to replace the vehicles. In other instances, the older vehicles offered a variety of attributes which significant numbers of consumers prefer to newer models which were once intended as replacement vehicles. GM commented, for example, that some of its customers prefer a 5 percent larger

passenger compartment (comparing its "G" car to its "A" car) or a 30 percent larger trunk (comparing its "B" car to its "H" car).

Third, as discussed above, both GM and Ford have continued to make significant technological improvements in their fleets and have had reasonable plans to meet CAFE standards. In a situation where unforeseen events, including changes in consumer demand or changes in the competition's product offerings, overtake a manufacturer's reasonable product plan to comply with a standard, the agency does not consider it consistent with the Act to "hold" the manufacturer to carrying out a product plan that has become economically impracticable. GM noted that the cars that CFAS has argued should be discontinued accounted for more than 25 percent of its production last year, or 14.8 percent of total U.S. passenger car production.

On the other hand, as it becomes apparent that additional application of technology, such as further penetration of front-wheel drive or additional use of material substitution, is necessary to meet CAFE standards, manufacturers must initiate efforts to redesign and replace their older cars as necessary to meet such standards. Given the leadtime required to make significant technological improvements, however, it is not surprising that the dramatic change in consumer demand which has taken place has affected GM's and Ford's ability to comply with the 27.5 mpg standard for more than one model year.

With respect to Chrysler's comment that a prudent manufacturer would build a margin of error into its product plans for unforeseen circumstances, the agency notes that at the time GM and Ford planned their basic MY 1987–88 fleets, they reasonably projected CAFE's exceeding 27.5 mpg by a comfortable margin.

One other issue which is relevant to considering the sufficiency of manufacturer efforts to meet the 27.5 mpg standard relates to captive imports. DOE commented that one factor limiting GM's and Ford's ability to improve their CAFE is their "aggressive" captive import strategies. NHTSA notes first that such captive import strategies have no effect on energy conservation. While GM's and Ford's domestic CAFE levels are affected by whether a particular car they sell is an import or not, the country of origin of the car does not affect the amount of gasoline it consumes. Moreover, GM and Ford are pursuing their captive import strategies due to market conditions that have nothing to do with CAFE. Due to substantial cost advantages of producing small cars abroad, imports comprise a large portion of the small car fleet. GM's and Ford's captive import strategies are primarily in response to vigorous competition from abroad. Indeed, if GM and Ford did not import particular small cars, other manufacturers would likely import additional small cars. For all of these reasons, the agency does not believe that GM's and Ford's captive import strategies are unreasonable with respect to their efforts to meet CAFE standards for their domestically produced cars.

Other Federal Standards

EPA published a final rule in the **Federal Register** (50 FR 27172) on July 1, 1985, to provide CAFE adjustments for the effects of past test procedure changes. The final rule adopted a formula approach for calculating CAFE adjustments. As indicated above, the manufacturer projections discussed in this notice include the effect of the EPA adjustment credit, unless noted otherwise. Due to the formula approach, the specific value of the credit may vary for different model years and among manufacturers. A typical credit for the MY 1987–88 time period would be 0.1 or 0.2 mpg.

Another issue related to EPA's test procedure concerns dynamometer power absorber (DPA) values. Both GM and Ford commented that their CAFE projections have declined as a result of higher DPA values under a draft Advisory Circular (A/C 55C) issued by EPA. NHTSA contacted EPA concerning this issue. EPA indicated in a letter dated August 8, 1986, that, as a result of its increased oversight and enforcement concerning vehicle road-load horsepower specifications, manufacturers' projected CAFE levels could decline. EPA indicated that as part of reminding the manufacturers of what it believes their responsibility has been all along under the regulations it is considering revisions to its Advisory Circular No. 55B which deals with the general subject of road-load determination. That agency noted, however, that it expects to continue its increased enforcement whether or not it updates its advisory guidance. NHTSA has accounted for a CAFE decline due to revised road-load values in assessing manufacturers' capabilities. The latest projections provided by GM and Ford include the effects of the revised road-load values.

EPA has not announced any plans to modify its current exhaust emission control requirements, applicable to cars, for hydrocarbons, carbon monoxide, and oxides of nitrogen. Therefore, the agency has not considered any further impacts on fuel economy from control of these pollutants. The agency has previously analyzed the effects of the current requirements on fuel economy.

EPA added a requirement for control of particulate matter in MY 1985, which will be tightened in MY 1987. While this requirement applies to all vehicles, the only current production engine which will have difficulty meeting this requirement is the diesel. EPA has indicated that there is a 1 to 2 percent fuel economy penalty for diesel powered vehicles which require a particulate trap to comply with the standard. However, it is believed that only a very small fraction of diesel vehicles will need traps for compliance.

GM has discontinued production of its larger domestically produced diesels, which comprised less than 1 percent of its total MY 1985 sales, and Ford does not offer a domestically produced diesel. While both of these manufacturers offer cars with imported diesel engines, the sales of the vehicles are very small. Also, the engines are of small displacement and therefore will probably not require the use of a particulate trap for compliance. Therefore, the more stringent particulate standard is not expected to have any significant effect on their CAFE levels.

Mercedes Benz and BMW have argued that the particulate standard is affecting their CAFE capability. BMW stated that the 1986 California Air Resources Board standard for particulates prevented it from selling any diesel cars in California, a loss of approximately 30 percent of total California sales. Mercedes asserts that the California standard and the 1987 Federal standard would require the use of diesel engine trap technology in order to achieve compliance. Mercedes argued that Federal and state emissions regulations that became effective in the past several years and will become more stringent in MY 1987 and 1989 have forced technological changes that were and will be very detrimental to the fuel efficiency of the diesel engine. That company argued that the impact on fuel economy is much more significant than projected by EPA. According to Mercedes, there is a penalty of 3.9 mpg, which is a 13 percent penalty rather than the one to two percent penalty estimated by EPA. Mercedes did not provide any data in support of its position.

NHTSA notes that diesel sales have fallen drastically in recent years, declining from a peak of 6.0 percent of the total fleet in 1981 to 0.9 percent of the fleet in 1985. This decline has been primarily due to declining gasoline

prices and a decline in the price advantage of diesel fuel as compared to unleaded gasoline. The decline in the popularity of diesels has little or nothing to do with emissions standards. However, the more stringent particulate standard does result in additional development and certification expenses for those manufacturers which choose to use diesels.

The agency is not aware of any plans on the part of EPA to promulgate noise regulations during the MY 1987–88 time period and therefore does not anticipate any attendant fuel economy penalties.

As discussed in the FRIA, several relatively recent changes in Federal safety and damageability requirements may affect CAFE. These include a May 1982 amendment to the Part 581 Bumper Standard reducing the standard's impact protection requirements and thereby permitting weight savings; several amendments to the agency's lighting standard, which permit greater aerodynamic efficiency; and the fact that the automatic restraint requirements of Standard No. 208, with attendant adverse weight and fuel economy penalties, are being phased in beginning in MY 1987.

The FRIA concludes that the potential weight savings associated with the Bumper Standard amendment could produce a gain of 0.2 to 0.5 mpg. However, both GM and Ford have indicated that market demand has led them to retain 5 mph bumper systems (generally Phase I) on most of their product lines. Consequently, relatively little weight has been removed from the GM and Ford fleets due to the change in the standard. The agency endorses the voluntary use of 5 mph bumper systems as consistent with congressional intent in enacting Title I of the Motor Vehicle Information and Cost Savings Act, Bumper Standards. Accordingly, the agency will not consider the possible 0.2 to 0.5 mpg gain associated with potentially lighter bumpers as part of its consideration of "technological feasibility."

With respect to the amendments to the agency's lighting standard, the FRIA concludes that the 2 to 3 percent improvement in aerodynamic drag associated with the new headlamp assemblies now permitted by the standard could produce a 0.4 to 0.9 percent improvement in fuel economy. For a 27.5 mpg fleet, this would equate to a 0.11 to 0.25 mpg improvement in CAFE if all vehicles in the fleet employed the new lamp designs. Several manufacturers are utilizing these headlamps. For MY 1986, Ford is using aero headlamps on its Taurus/Sable, Escort, Tempo, SVO Mustang and Lincoln Mark VII. Similarly, GM is also making extensive use of composite headlamps and Type LF/UF sealed beam headlamps for MY 1986. The fuel economy benefits from these new headlamp assemblies are factored into the manufacturers' CAFE projections.

The FRIA concludes that the weight penalty associated with the phase-in of the automatic restraint requirements is likely to be 2.2 to 3.0 pounds in MY 1987 and 5.5 to 7.5 pounds in MY 1988. This assumes that the principal means of compliance, at least initially, will be through the use of automatic belts. The estimated weight penalty is for illustration purposes, since the impact on an individual manufacturer will depend on the choice of occupant protection system, weight efficiency of the particular design, size of vehicle, and other factors. The weight penalty is expected to have only a very minor impact on CAFE.

Safety Considerations

CEI argued that NHTSA should set the MY 1987–88 standards at what it termed a "non-forcing level," perhaps 22 mpg, based on safety considerations. That commenter argued that a standard of 27.5 mpg, as compared to one of 26.0 mpg, would result in an increase of 300 to 400 fatalities per year. In making this argument, CEI assumed, among other things, that GM and Ford would need to reduce the weight of their cars by an average of 200 pounds, or 6.5 percent, to improve fuel economy from 26.0 to 27.5 mpg. CEI argued further that NHTSA should consider safety effects from a market-based baseline rather than from 26.0 mpg. That commenter suggested that 22.0 mpg would be a reasonable market-based baseline, citing an estimate by Robert H. Crandall of the Brookings Institution that CAFE did not begin to affect the market until MY 1981, when the standard was 22.0 mpg. According to CEI, a 27.5 mpg standard might entail considerably more than 1,000 additional fatalities per year as compared to a 22.0 mpg standard.

IIHS also commented on the relationship of CAFE standards and safety, arguing that CAFE standards can have a potentially adverse effect on vehicle safety because vehicle size is an important factor in safety. IIHS stated that occupants of smaller cars are at much greater risk of death and injury than occupants of larger cars, citing data from Maryland and the agency's Fatal Accident Reporting System.

Failure Analysis Associates also submitted a comment on safety, arguing, among other things, that downsizing has resulted in missed opportunities to avoid significant numbers of passenger car injuries and fatalities. That commenter stated that further "enforced" downsizing through more stringent CAFE standards would cause an additional toll in fatalities and injury compared to the alternative of maintaining the current size/weight sales picture.

NHTSA agrees that there is a relationship between safety and car size and weight, in a crash. The relationship is a very complex one, however. For example, while it is true that smaller cars are generally less crashworthy for their occupants than larger ones, everything else being equal, they are also less aggressive to occupants of other vehicles. Both effects must be considered in order to determine the effect on fatalities if the market share of smaller vehicles increases. Moreover, in analyzing accident data, it is extremely difficult to adequately separate out relevant factors other than car size and weight that affect safety. These include both vehicle differences, i.e., vehicle factors related to safety other than size and weight, and driver differences, e.g., age differences, etc.

While the agency recognizes the relationship between safety and vehicle size and weight, in a crash, it nonetheless concludes that CAFE standards in the range of 26.0 mpg to 27.5 mpg need not have a significant effect on safety. In the MY 1986 proceeding, NHTSA addressed the issue of safety as follows:

> The agency does not believe that there is any basis for concluding that a 26.0, or even a 27.5 mpg standard, would represent any significant increased risk of injury or death for passenger car occupants. It is true that in a crash between cars of different sizes, everything else being equal, the occupants of the smaller car are at greater risk of injury. However, as large cars are reduced in size, the mass differences between large and small cars diminish, along with the potential for injury. In addition, the agency is taking steps to ensure that smaller vehicles provide sufficient crash protection. Also, small cars may have crash-avoidance advantages compared to heavier vehicles. Passenger car occupant deaths have in fact dropped from 28,200 in 1978 to 23,500 in 1984, a 17 percent decline. This occurred during a time when the average new car's weight was reduced by 1000 pounds. 50 FR 40547 to 40548.

The agency notes first that CEI's argument that CAFE standards higher than 26.0 mpg will result in decreased safety is premised on the assumption that GM and Ford can achieve CAFE higher than 26.0 mpg only by "forcing" consumers to purchase a higher-than-preferred percentage of smaller cars. Similarly, IIHS's and Failure Analysis Associates' concern that CAFE

standards may affect safety assumes that CAFE standards will require consumers to purchase smaller cars.

During the MY 1987–88 time period, GM and Ford are largely improving their fuel economy through technological improvements other than weight reduction. Between 1986 and 1988, GM's fleet is expected to be reduced in average weight by only 1.5 percent while Ford's is expected to increase in average weight by 3 percent.

There are a number of specific methodological shortcomings to CEI's analysis. First, CEI assumes that fuel economy is improved only by reducing weight, and thus does not account for improved technology. Thus, the weight differences between a 26.0 mpg fleet and a 27.5 mpg fleet are exaggerated. Second, CEI applies the weight differences, along with other factors, to the total of highway fatalities, including pedestrian fatalities, bicyclist deaths, single vehicle heavy truck accidents, etc. Clearly, a reduction in passenger car weight will not result in a greater likelihood of death for pedestrians, bicyclists, and occupants of tractor-trailers which run off the road. At most, CEI should have applied its factors to only passenger car occupant deaths, a number which is approximately one-half of that used by CEI. Third, the CEI estimate of 300 additional fatalities is predicated on a model used in a recent Brookings Institution publication, *Regulating the Automobile*. This model shows a statistically significant effect for a change in passenger car weight on pedestrian, bicyclist, and other non-passenger car occupant fatalities. However, the model shows that the effect on passenger car occupant fatalities is not statistically significant. In addition to being counterintuitive, the model argues against the very premise of CEI's claim, that vehicle weight will be a major determinant of highway fatalities.

Moreover, while manufacturers have used and are generally planning to continue to use weight reduction as a means of improving fuel efficiency, NHTSA believes that this weight reduction is largely related to consumer demand. CEI itself stated that in the absence of CAFE standards, "the general downsizing of the American passenger car fleet . . . accompanied by improved energy efficiency . . . for cars in all size categories would have occurred in any case." While it is true that consumers place less emphasis on fuel economy and more emphasis on such things as size and performance when gasoline prices are low, fuel efficiency remains an important factor in consumers' purchasing decisions. For example, GM commented that a recent market research program shows that even though stabilization of fuel prices had caused new car intenders to shift their preferences toward more acceleration performance, their preference toward expected fuel economy increases had also risen. Thus, even if there were no CAFE standards, there is no reason to assume that consumers would return to larger and heavier cars.

For all of these reasons, NHTSA concludes that there is no basis for the fatality estimates provided by CEI. While the agency has concluded that CAFE standards in the 26.0 mpg to 27.5 mpg range need not have a significant effect on safety, however, it recognizes that to the extent that manufacturers may, in the short run, be able to improve their CAFE only by product restrictions, individual consumers could be denied the opportunity to purchase the larger, safer cars that they may desire. Moreover, it is possible CAFE standards above 27.5 mpg could have a significant effect on safety, even in the longer run, to the extent that they might "force" consumers into significantly smaller and lighter cars. Thus, were NHTSA to consider setting standards above 27.5 mpg in the future, it agrees that the issue of safety would warrant further attention.

The Need To Conserve Energy

Since 1975, when the Energy Policy and Conservation Act was passed, this nation's energy situation has undergone a great deal of change. In particular, oil markets have been deregulated and the Strategic Petroleum Reserve (SPR) has been established.

The United States imported 15 percent of its oil needs in 1955. By 1977, the import share was 46.4 percent and the value of imported crude oil and refined petroleum products was $67 billion (stated in 1984 dollars). While the import share of total petroleum demand declined after that year, the cost continued to rise to a 1980 peak level of $93.2 billion (1984 dollars). By 1985, the import share had declined to 28.7 percent at a cost of $48.3 billion (1984 dollars).

Through 1985, imports from OPEC sources declined, from a high of 6.2 million barrels per day and 70.3 percent of all imports in 1977 to 1.8 billion barrels per day and 36.2 percent of imports in 1985. As imports have shifted to non-OPEC sources, the United States' supply of petroleum has become less vulnerable to the political instabilities of some OPEC countries, as compared to the situation in the mid-1970's.

By 1985, the U.S. was much more energy independent than it was a decade ago, when Congress established the fuel economy standards program. From 1976 to 1984, energy efficiency in the U.S. economy improved by 21 percent (1984 Annual Energy Review, Energy Information Administration, U.S. Department of Energy, p. 41) and passenger car petroleum consumption was actually lower than it was in 1975, even though travel has increased 25 percent since then. Domestic oil production was higher in 1985 than it was in 1975, total imports have dropped 18 percent, and on a net import basis the value of the nation's imported oil bill fell nearly 50 percent from 1980 to 1985. The amount of imported oil from OPEC has dropped by 71 percent since the peak of 1977. As a percentage share of GNP, the net oil import bill fell from 2.8 percent in 1980 to 1.2 percent in 1985. In addition, the price of oil is now fully decontrolled, permitting the market to adjust quickly to changing conditions, and the SPR is well on its way to being filled. The 451 million barrels in the SPR at year-end 1984 were equal to 141 days or 38.6 percent of non-SPR crude oil imports that year. Thus, by any measure, the nation is currently in a stronger energy position than it was a decade ago.

According to Energy Information Administration (EIA) and Data Resources, Inc. (DRI), projections, however, domestic production is expected to decline from a stable level of 10.6 MMB/D to between 7.5 MMB/D (DRI) and 8.3 MMB/D (EIA) by 1995. Net imports are expected to rise from 4.2 MMB/D to between 7.7 MMB/D (EIA) and 9.9 MMB/D (DRI) by 1995. NHTSA thus recognizes that available projections indicate a general consensus that imports may approach or exceed 50 percent of U.S. petroleum use by 1995. Future projections about petroleum imports are, of course, subject to great uncertainty. Indeed, oil imports are very difficult to project beyond a year or two. For example, the EIA's 1977 Annual Report to Congress projected that net oil imports by the U.S. would, in the "reference case," reach 11 million barrels per day by 1985. Net imports in 1985 actually turned out to be 4.2 million barrels per day, less than half the level predicted in 1977.

Chrysler argued that long-term risks remain with respect to the nation's need to conserve energy and alleged that NHTSA is apparently prepared to act on the assumption that America no longer has an energy problem and no longer needs to worry about conservation. That commenter argued that abundant supplies and falling prices are killing all

incentive for oil exploration and energy conservation, and quoted former Energy Secretary James R. Schlesinger as saying that "(t)he United States is now in the process of creating a substantially increased oil dependency for the 1990's. . . . We are sowing the seeds of the next oil crisis." Chrysler also argued that it is no answer that the nation can trust the market because oil prices have been decontrolled. That commenter stated that in 1975, when the Act was passed, Congress was concerned that artificially low prices would send the wrong signals about long-term conservation needs. Chrysler argued that oil prices are again artificially low—to a large extent because one major foreign supplier has decided to "swamp" the market with supply in an effort to discipline other producers, thereby hoping to restore the conditions that produced two previous oil crises.

The Center for Auto Safety argued that the recent drop in oil prices clearly increases the chance of yet another energy disruption and underscores the urgent necessity of maintaining the current fuel economy standards. That commenter also argued that the agency had overemphasized the added security provided by the current level of the SPR. CFAS quoted a report prepared by the National Academy of Sciences for the U.S. Department of Energy as indicating that given the demand and production rates projected for the 1990's, the SPR will provide only a 50 days supply instead of the current 100 days supply.

GM commented that the risk of increased imports does not imply any increased vulnerability to a new energy crisis. That commenter stated that it is not at all certain, or even likely, that the primary source of these increased imports would be Persian Gulf oil, noting that the potential exists for further increases in supply from non-OPEC countries such as Mexico, Norway, Colombia, India and others.

NHTSA agrees with GM that if imports do once again reach the 50 percent level, the nation will remain in a much stronger energy position than was the case in the mid-1970's. The nation's sources of oil imports are more diverse and less vulnerable to disruption, the nation's energy efficiency is much higher, there is greater ability to substitute alternative sources of energy, and the absence of price controls permits the market to more easily respond to changes in supply and demand.

As discussed below, the need to conserve energy is only one of four factors that NHTSA is required to consider in establishing fuel economy standards at the maximum feasible level. NHTSA rejects Chrysler's allegation, however, that the agency assumes that America no longer has an energy problem and no longer needs to worry about conservation. The prospect of increasing oil imports does raise concerns about national security and balance of payments difficulties. Moreover, quite apart from the issue of whether oil imports are likely to increase in the next decade, petroleum is a vital natural resource which is non-renewable.

While the agency agrees that the need to conserve energy is important, it also notes that Congress' goal of energy conservation by improved automotive fuel efficiency has largely been realized. In MY 1986, for the first time, the average fuel economy of the total fleet of new cars will in fact exceed 27.5 mpg. A major reason that GM and Ford are having difficulty achieving CAFE of 27.5 mpg, apart from the unexpected drop in gasoline prices since their MY 1987–88 product plans were developed, is that the smallest, most fuel-efficient GM and Ford cars are largely imports, which cannot be included in their domestic CAFE. The reason for producing small cars abroad relates to cost advantages, rather than anything having to do with CAFE. However, with respect to the need to conserve energy, it makes no difference whether a manufacturer produces a fuel-efficient car abroad or in the United States.

Amending the MY 1987–88 Standards

As discussed above, section 502(a)(4) provides that the 27.5 mpg standard can be amended if the agency determines that some other standard represents the maximum feasible average fuel economy level. In making this determination, the agency must consider the four factors of section 502(e): technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, and the need of the nation to conserve energy.

A. Interpretation of "Feasible"

Based on dictionary definitions and judicial interpretations of similar language in other statutes, the agency has traditionally interpreted "feasible" to refer to whether something is capable of being done, taking into account the four statutory criteria: technology, economic practicability, the effect of other Federal standards, and the need of the nation to conserve energy. The statute does not elevate any one of these criteria above the others, nor does it provide guidance to the agency on weighing any of these criteria more heavily than any others. For example, the agency's determination of the "maximum feasible" standard cannot be that level which is merely the maximum technologically feasible without regard to the economic practicability of such a level. Also, as discussed elsewhere in this notice, the agency has traditionally included a small margin to account for technological and economic risks when establishing CAFE standards, and believes this is consistent with the statutory instruction to consider and balance all four criteria.

B. Industrywide Considerations

The statute does not expressly state whether the concept of feasibility is to be determined on a manufacturer-by-manufacturer basis or on an industrywide basis. Legislative history may be used as an indication of congressional intent in resolving ambiguities in statutory language. The agency believes that the Conference Report to the 1975 Act, quoted below, provides guidance on the meaning of "maximum feasible average fuel economy level." In the recent case of *Center for Auto Safety* v. *NHTSA*, upholding the MY 1985–86 light truck fuel economy standards, the United States Court of Appeals (D.C. Circuit) indicated that this language is relevant to determining congressional intent concerning the setting of fuel economy standards. (D.C. Cir. No. 85–1231, June 20, 1986, slip op. at p. 34)

The Conference Report to the 1975 Act (S. Rep. No. 94–516, 94th Cong., lst Sess. 154–5 (1975)), states:

> Such determination [of maximum feasible average fuel economy level] should therefore take industrywide considerations into account. For example, a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy. Rather, the Secretary must weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual manufacturers. Such difficulties, however, should be given appropriate weight in setting the standard in light of the small number of domestic manufacturers that currently exist, and the possible implications for the national economy and for reduced competition association (sic) with a severe strain on any manufacturer. . . .

It is clear from the Conference Report that Congress did not intend that standards simply be set at the level of the least capable manufacturer, regardless of market share. Rather, NHTSA must take industrywide considerations into account in determining maximum feasible average fuel economy level. On the other hand, the Conference Report indicates that the

circumstances of the domestic manufacturers are to be given appropriate weight in assessing "industrywide considerations."

C. The MY 1987–88 Standards—Overview

Based on the analysis discussed above, NHTSA has determined that GM can achieve a MY 1987 CAFE no higher than 26.3 mpg to 26.4 mpg, and Ford can achieve a MY 1988 CAFE no higher than 26.4 mpg. These figures are subject to a number of uncertainties not already accounted for. Ford's MY 1987 capability is somewhat higher than GM's, while GM's MY 1988 capability is somewhat higher than Ford's.

Chrysler, American Motors, Volkswagen, Hyundai, and the Japanese manufacturers are expected to achieve CAFE levels above 27.5 mpg, due to the mix of vehicles they sell. The European manufacturers, including Mercedes-Benz, Volvo, BMW, Peugeot, Saab, and Jaguar will generally achieve CAFE levels below those achievable by GM and Ford in MY 1987–88.

In proceeding from an analysis of manufacturer CAFE capabilities to the setting of standards, NHTSA notes that the setting of maximum feasible average fuel economy standards, based on the consideration of the four required factors of section 502(e), is not a mere mathematical exercise but is a matter of agency judgment that takes account of many considerations relevant to those factors, including uncertainties. NHTSA has concluded that 26.0 mpg is the maximum feasible average fuel economy level for the 1987–88 model years. This level balances the small potential petroleum savings associated with higher standards against the substantial difficulties of individual manufacturers, especially domestic manufacturers, facing potentially higher standards and the impacts of such standards on the automotive industry and the economy as a whole.

D. Economic Impacts of Not Amending the 27.5 mpg Standard

NHTSA's analysis indicates that the only actions available to GM and Ford in the near-term to achieve CAFE levels of 27.5 mpg, i.e., for MY 1987–88, would involve a combination of drastic product restrictions and foreign outsourcing of their larger cars. Such product restrictions would result in significant adverse economic impacts and restrict consumer choice to an unreasonable degree.

The unacceptability of the product mix that would result from GM and Ford achieving 27.5 mpg CAFE in MY 1987–88 from product restrictions would likely result in sales losses well into the hundreds of thousands of units and resultant job losses well into the tens of thousands. The agency considers these effects to be beyond the realm of economic practicability. To the extent that these economic impacts could be partially offset by the foreign outsourcing of larger cars, there would be absolutely no energy conservation benefits, but American workers would lose jobs.

Moreover, any combination of such product restrictions and foreign outsourcing would significantly increase an already serious U.S. balance of trade problem. The U.S. trade deficit reached $148.5 billion in 1985 and is running at an annualized rate of $175 billion for 1986. Through the first seven months of 1986 the imbalance in trade in passenger cars accounted for 22.5 percent of the total U.S. trade deficit. While foreign outsourcing would involve a direct transfer of U.S. jobs overseas, product restrictions would permit foreign manufacturers, which achieve higher CAFE due to their emphasis on smaller cars, to substantially increase their penetration of the larger car market at the expense of the domestic manufacturers.

E. Determining the Levels of the MY 1987–88 Standards

In setting the standard at 26.0 mpg for both model years, NHTSA has followed its traditional approach of setting standards at the level achievable by the least capable manufacturer with a substantial share of sales, and considering risks in determining that level. For MY 1987, GM is the least capable manufacturer, with a capability no higher than 26.3 mpg to 26.4 mpg. For MY 1988, Ford is the least capable manufacturer, with a capability no higher than 26.4 mpg.

1. Consideration of Risks

In determining the levels of the MY 1987–88 standards, NHTSA considered the appropriate margin, if any, to account for risks beyond the manufacturers' control. Standards set at 26.0 mpg provide a small margin, i.e., 0.3 mpg to 0.4 mpg, to account for risks. This is similar in magnitude to the risk factor adopted by NHTSA in setting the MY 1986 standard, and substantially smaller than the downward adjustments provided in 1977 for the MY 1981 standard. In light of differences in this record when compared to the MY 1986 rulemaking, the agency considered whether a smaller risk factor, or no risk factor at all, should be provided. While there was a significant risk in the MY 1986 rulemaking that gasoline prices would continue to fall, that risk is smaller now. Also, despite the unexpectedly large magnitude of the drop in gasoline prices that did occur during MY 1986, GM and Ford were able to achieve or exceed their projected CAFE levels. Another difference in the record is the risk of increased Japanese imports. That risk is lower now than in the MY 1986 rulemaking given the decline in the value of the dollar that has occurred, although, as discussed below, currency values could change again.

While NHTSA recognizes the differences in the record, it also recognizes the inherent difficulties in evaluating the potential impact of the uncertainties that do exist. It, therefore, concludes that a small, i.e., 0.3–0.4 mpg, risk factor should continue to be provided. NHTSA has traditionally provided a small margin for risks related to uncertainties and believes it is appropriate to continue to do so for MY 1987–88. In setting the MY 1981–84 standards, for example, NHTSA specifically provided an allowance for unforeseen contingencies. See 42 FR 33548, June 30, 1977. The agency noted then that this approach was consistent with that of the Senate Commerce Committee in establishing the 1980 average fuel economy standard. That committee concluded that a fuel economy goal of 21 mpg, representing a 50 percent improvement over 1974, was reasonable. In reaching this decision, the committee considered a report indicating that up to a 63 percent improvement was possible. The committee concluded, however, that calling for a 50 percent improvement would provide "ample cushion for unforeseen contingencies." See S. Rep. No. 94–179, 94th Cong., 1st Sess. 10 (1975).

It is true, of course, that in amending the MY 1987 standard just prior to the start of the model year and the MY 1988 standard approximately a year before the start of the model year, there is less technological uncertainty than when standards are set several years in advance. On the other hand, there is now little or no opportunity for the manufacturers to plan further technological changes as a margin of safety to rely on if unforeseen contingencies arise. Thus, if such events did occur, the manufacturers might only be able to achieve the levels of the standards by product restrictions.

Past experience clearly indicates that there is a significant risk that unexpected uncertainties may occur, which could lower expected CAFE values. A comparison of manufacturers'

CAFE estimates as shown in their pre-model year reports, which are submitted in late December of the then-current model year (i.e., at a time when many vehicles are well into production), and their mid-model year reports, which are submitted in late July, near the end of the model year, illustrates the difficulties in predicting CAFE values even at the beginning of a particular model year. For example, GM's and Ford's MY 1982–83 CAFE levels declined by an average of 0.7 mpg between the pre-model year report and the mid-model year report. While GM's and Ford's CAFE levels have not declined between those two reports for the last two model years, past experience nonetheless indicates the risk that such declines may occur.

Similarly, manufacturers are unable to predict sales levels for particular carlines or for their overall fleets with precision, even at the start of the model year. For example, in Ford's MY 1986 fleet, Crown Victoria/Grand Marquis sales were 10 percent higher than expected, Mustang/Capri sales were 12 percent higher than expected, Thunderbird/Cougar sales were almost 16 percent higher than planned, and EXP sales were almost 16 percent below pre-model year report projections. In GM's MY 1985 fleet, G-special (e.g., Buick Regal) sales were nine percent higher than projected in the pre-model year report, and P-body (Pontiac Fiero) sales were lower than projected by more than 11 percent.

The primary risk affecting GM's and Ford's MY 1987–88 CAFE projections is that their car and engine mix assumptions could turn out to be incorrect. NHTSA's analysis indicates that potential mix shifts could reduce GM's MY 1987 CAFE to 26.0 mpg. As discussed below, such mix shifts could be triggered by events beyond GM's control. For example, 10 to 25 percent increases in sales of less fuel-efficient carlines and 10–20 percent decreases in sales of more fuel-efficient carlines, ranges consistent with those experienced recently, could result in a 26.0 mpg CAFE for GM's MY 1987 fleet. Such shifts are consistent with GM's capacity constraints. This scenario is based on the assumption that average fuel economy for each carline remains unchanged from GM's basic projection. If there were shifts toward less fuel-efficient engines within many of these carlines, a mix shift of even lesser magnitude could result in CAFE of 26.0 mpg for GM's MY 1987 fleet. Ford has provided data indicating that mix shifts could reduce its MY 1988 CAFE to below 26.0 mpg.

Outside events, beyond the manufacturers' control, could change consumer demand, resulting in the mix shifts toward larger cars and larger engines postulated above. Should gasoline prices fall below the values estimated by the manufacturers, there could be a downward effect on CAFE. While industry analysts are not currently projecting lower gasoline prices, these same analysts have been unable to accurately predict gasoline prices for the past several years. Moreover, while consumers have not responded as strongly as might have been expected to the fall in gasoline prices during 1986, there could be a lag in consumer response to a fall of that magnitude, e.g., consumers may have expected a compensating upward trend, which has not materialized, or they may hold off purchasing a less fuel-efficient car until they feel more certain fuel prices will stay relatively low. The agency notes that Ford's gasoline price projections are somewhat higher than those of GM. Thus, should GM's estimates prove correct, there will be a downward pressure on Ford's projected CAFE.

Another uncertainty related to consumer demand is how MY 1987–88 sales may be affected by the extremely low interest rates offered by the manufacturers toward the end of MY 1986. For example, some consumers who would have purchased MY 1987–88 cars may have made their purchases earlier as a result of the low financing, while other consumers might delay purchasing cars in the hope that such financing plans will be offered again.

Still another uncertainty is how car buyers may respond to expected changes in the tax code. Changes of particular relevance include the lower individual tax rates and repeal of deductions of sales taxes and interest on auto loans. It is very difficult to predict the impacts of these changes on consumer demand for cars. With respect to the overall impacts of the legislation, Senate Finance Committee Chairman Robert Packwood, the tax bill's chief Senate author, recently commented that he had rejected a proposal for extensive hearings on the bill, noting that "(y)ou could hold three or four weeks of hearings and have 15 economists in to testify and we still wouldn't know the effect of it." See *Washington Post*, September 14. 1986, p. K7. The tax bill does create economic uncertainties, however, which could affect consumer demand for cars and thus CAFE. For example, the lower tax rates for individuals could increase after-tax income and thereby stimulate consumer demand for more expensive, less fuel-efficient cars, resulting in lower CAFE. Or, the repeal of deductions on interest for car loans and sales taxes on car purchases could have a disproportionate impact on sales of economy cars, whose buyers may be more sensitive to the overall costs of purchasing and operating a car, and more expensive cars, whose buyers may be less sensitive to such costs. As with many of the other uncertainties, NHTSA is not attempting to predict any particular impact from the tax bill with respect to consumer demand for cars in general or CAFE in particular, but is instead pointing out the kinds of market uncertainties which could have an impact on CAFE. The agency also notes that, quite apart from how consumer demand may change in response to particular events, consumer demand is by its nature highly uncertain, since it is largely dependent on changing tastes and preferences that may defy precise analysis.

GM and Ford may also face greater than expected competition from foreign manufacturers of small cars, which could reduce the sales of the domestic manufacturers' more fuel efficient cars, thereby lowering their CAFE evels. While the yen has been rising in value against the dollar, currency values are always subject to fluctuation, and that trend could reverse. Also, the Japanese manufacturers may adjust to the currency changes and, in light of their still significant cost advantage, compete more aggressively in the U.S. market despite a higher yen. The agency notes that Toyota has recently called for the end of restraints on Japanese car exports and also suggested that by 1988 it could compete at an exchange rate of 140 yen to the dollar as compared to the current 155 rate. See *Washington Post*, August 28, 1986; *Wall Street Journal*, September 9, 1986. Finally, Korea could sell more cars than expected. Hyundai, which became the leading Canadian import within two years of introduction into that country, is selling well during its first year of sales in the U.S. While Hyundai was a late introduction for the 1986 model year, it has recently been selling cars at a rate of about 20,000 units per month. It was reported in the July 7, 1986 issue of *Automotive News*, p. 20, that, after just four months in the U.S., Hyundai sold the most cars sold by any importer in the first six months of operation. The same issue of *Automotive News*, at p. 20, reported the following with respect to total expected Korean vehicle production:

> The Korean government is predicting a 60 percent increase in capacity over 1985 to

600,000 units this year. Next year, capacity will increase by another 60 percent to nearly 1 million units, according to S. Kim Song, commodity manager of GM's Purchasing Activities Staff.

In a presentation for the Sixth United States-Japan Auto Industry Conference at the University of Michigan, Song estimated that Hyundai would have capacity for 450,000 units, Daewoo, 300,000 and Kia, 200,000. Hyundai has since upped its estimate to 600,000 units.

In addition, quite apart from changes in the competitive environment, the manufacturers' CAFE projections are dependent on numerous assumptions relating to production of the cars they plan to sell. Even relatively minor difficulties, beyond the manufacturers' control, relating to such things as delays in start-up times for new plants or equipment, technical or labor difficulties of particular suppliers, etc., could adversely affect the manufacturers' CAFE.

NHTSA concludes that in choosing between standards incorporating a risk factor and not doing so, the potential harms of setting the standard too high are far outweighed by any risks of setting it too low. In reaching this conclusion, NHTSA recognizes that some uncertainties can go in both directions. However, if the agency changed its past practice and did not include a risk factor in setting the MY 1987–88 CAFE standards, the occurrence of even relatively minor uncertainties could place the manufacturers in a position of being able to achieve the levels of the standards only by product restrictions. On the other hand, the record indicates that GM and Ford are continuing to make reasonable efforts to achieve and, to the extent possible, exceed CAFE standards, particularly in light of their desire to earn credits. Thus, providing a small risk factor will not provide any incentive for GM and Ford to do anything other than achieve their highest possible CAFE levels.

2. Consideration of standards above GM's and/or Ford's capability

As part of taking industrywide considerations into account, NHTSA has considered whether a standard could or should be set at levels above the capabilities of GM and/or Ford. As indicated above, the Conference Report states that the "Secretary must weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual manufacturers," and that "(s)uch difficulties should be given appropriate weight in setting the standard in light of the small number of domestic manufacturers that currently exist, and the possible implications for the national economy and for reduced competition association (sic) with a severe strain on any manufacturer."

With respect to light truck standards, NHTSA has consistently taken the position that it has a responsibility to set standards at a level that can be achieved by manufacturers of a substantial share of sales. See 49 FR 41251; October 22, 1984. The agency once set the MY 1982 light truck standards at a level which it recognized might be above the maximum feasible average fuel economy capability of Chrysler, based on the conclusion that the energy savings benefits associated with the higher standard would outweigh the harm to Chrysler. See 45 FR 20871, 20876; March 31, 1980. Although the House Committee on Interstate and Foreign Commerce later stated that it "generally agreed with DOT," (See House Report No. 96–1026; May 16, 1980; p. 17), the Congress swiftly enacted special provisions for adjusting the MY 1982 light truck fuel economy standards to provide greater flexibility in dealing with the kinds of potential problems then faced by Chrysler, in part responding to Chrysler's arguments that it should not be forced to choose between paying millions of dollars in fines for violating the law and closing plants in order to meet the law.

NHTSA believes its practice of setting standards at a level that can be achieved by manufacturers of a substantial share of sales is consistent with its obligation to take industrywide considerations into account. Since GM produces more than 40 percent, and Ford approximately 18 percent, of all cars sold in the U.S., the agency believes that CAFE standards set at the level of the least capable of these manufacturers represents an appropriate balancing of "the benefits to the nation of a higher average fuel economy standard against the difficulties of individual manufacturers." Given GM's very large market share, the agency does not believe that a standard set above its level would be consistent with the requirement that industrywide considerations be taken into account. Moreover, given Ford's market share, which is larger than Chrysler's share of the light truck market in 1982, the agency believes that a standard set at a level above its capability would be inconsistent with that requirement.

Therefore, NHTSA concludes that any benefits of a higher standard would not outweigh the difficulties that would face GM and Ford. While NHTSA believes that energy conservation is important, it concludes that the possible small energy savings associated with maintaining the 27.5 mpg standard for MY 1987–88 (discussed below) do not justify the potential major economic hardships discussed above. Moreover, as indicated above, given GM's and Ford's desire to earn credits in the MY 1987–88 time period, setting the standard at 26.0 mpg versus some level slightly above 26.0 mpg does not create any incentive for GM and Ford to achieve other than their highest possible CAFE levels.

3. Economic Impacts of Standards Set at 26.0 mpg

As discussed above, the agency has concluded that GM and Ford can both meet the 26.0 mpg MY 1987–88 standards without engaging in harmful product restrictions and without any significant restrictions on consumer choice. Thus, no job losses will result from GM and Ford meeting these standards, and there will be no adverse economic impacts on automobile dealers, suppliers, or automotive employees, including minorities.

NHTSA recognizes that the 26.0 mpg standard for MY 1987–88 is above the capabilities of some European manufacturers. For Jaguar and Mercedes-Benz, the standard is several mpg above those companies' capabilities.

Some of the European companies may thus be limited to two options: paying the statutory penalties associated with failure to comply with fuel economy standards or drastic product actions which, in the case of some, could require radical changes in the mix of cars they import. While the agency appreciates these difficulties, it also concludes that amending the MY 1987–88 standards to levels below 26.0 mpg would be inconsistent with a determination of maximum feasibility that takes industrywide considerations into account. Both the individual market share of each European manufacturer and the combined market share of all the European manufacturers is very small. For example, for January to May 1986 sales, Mercedes-Benz accounted for only 0.8 percent of U.S. sales, and Volvo accounted for only 1.1 percent.

4. Potential Impacts on Energy Conservation

In analyzing the potential energy savings associated with standards within a range of 26.0 mpg to 27.5 mpg, the agency believes that it is appropriate to focus on GM and Ford. Since the Japanese manufacturers have CAFE levels well above 27.5 mpg, as a result of focusing on smaller cars, a reduction in the MY 1987–88 standards does not create an incentive for those companies

to change their product plans. Similarly, given Chrysler's current CAFE projections and its MY 1986 experience, the agency has no reason to assume that company would change its product plans as a result of reduced standards. Finally, the agency does not have any reason to assume that the European manufacturers would change their product plans as a result of reduced standards. While some of those manufacturers project MY 1987–88 CAFE levels not only below 27.5 mpg but also below 26.0 mpg, they have not indicated any plans to attempt to achieve higher CAFE levels in order to meet the standards.

The precise magnitude of the energy savings, if any, which could result from maintaining the 27.5 mpg standard is uncertain, although a maximum bound can be calculated. As discussed above, GM and Ford could achieve CAFE of 27.5 mpg only by (1) restricting the sale of their larger cars and engines, and/or (2) transferring the production of large cars outside the United States.

To the extent that GM and Ford restricted the availability of their larger cars and engines, some consumers would likely keep their older, less fuel-efficient cars in service longer or purchase large pickup trucks and vans to obtain the room, power and load-carrying capacity they desire. Professor Leone presented an analysis in the MY 1986 proceeding demonstrating that if as a result of product restrictions one consumer in five purchased a light truck, specialty vehicle or van, or decided to keep driving an old 18 mpg vehicle, gasoline consumption for the fleet as a whole would remain the same or even increase.

As discussed above, to the extent that GM and Ford improved their CAFE by transferring the production of large cars or parts of large cars outside of the United States, there would be absolutely no energy conservation benefits associated with their higher domestic CAFE levels. Given the severe economic impacts associated with product restrictions, NHTSA believes that such outsourcing is the most likely first option manufacturers would take in an effort to comply with overly stringent CAFE standards, to the extent that there is available leadtime to take such action. As indicated above, Ford has indicated that it could take such action to improve its MY 1988 CAFE by 0.6 mpg.

The maximum hypothetical difference in gasoline consumption between GM and Ford achieving 26.0 mpg in MY 1987–88, as compared to those companies achieving 27.5 mpg, would be 3.28 billion gallons over the 20-year life of the MY 1987–88 fleets. This would represent 0.29 percent of projected national passenger car gasoline consumption over that time period. As indicated above, the agency cannot conclude that such savings would justify the potential sales losses and job losses associated with maintaining the 27.5 mpg standard for those two model years. Moreover, the agency concludes, for the reasons discussed above, that actual gasoline savings would be much lower than the above figures suggest, and possibly so low as to be negligible. The calculated maximum hypothetical difference in gasoline consumption assumes that GM and Ford would achieve CAFE levels of 27.5 mpg in MY 1987–88 by means whereby the higher domestic CAFE levels are fully translated into gasoline savings. As discussed above, however, this is not the case for product restrictions and outsourcing of larger cars and engines, the only two means by which GM and Ford could achieve a 27.5 mpg CAFE in those model years.

NHTSA has considered the potential energy savings of standards higher than 26.0 mpg but lower than 27.5 mpg. The agency does not believe that any such savings would justify the potential economic hardships. As indicated above, the record indicates that GM and Ford are continuing to make efforts to achieve and, to the extent possible, exceed CAFE standards, particularly in light of their desire to earn credits. Thus, setting standards at 26.0 mpg does not provide any incentive for GM and Ford to do anything other than achieve their highest possible CAFE levels.

5. Credits/Penalties

In determining the maximum feasible average fuel economy levels for MY 1987–88, and hence the standards, NHTSA has followed its consistent approach of analyzing the ability of manufacturers to meet the standards. It has not included as part of its calculation of standards the ability to pay penalties for not meeting the standards, or the availability of, or need for, credits.

An industrywide standard set at a level above the capabilities of the major manufacturers would by definition not be capable of being done and would thus not meet the requirement that standards be feasible. In the MY 1985–86 light truck fuel economy rulemaking, NHTSA rejected the suggestion that it set standards that would require the payment of penalties. The agency emphasized that in assessing economic practicability, it must consider the ability to meet a standard rather than the ability to pay the penalties for not meeting a standard. See 50 FR 11164, March 20, 1985. This approach was upheld by the U.S. Court of Appeals (D.C. Circuit) in *Center for Auto Safety* v. *NHTSA*, No. 85–1231, slip op. at 39–40 (June 20, 1986).

The agency does not, however, believe it should depart from its normal practice of accounting for uncertainties in an attempt to prevent the earning of credits. In establishing the credit provisions, Congress was necessarily aware of the tension between "maximum feasible" standards and manufacturers exceeding such standards in order to earn credits. A particular manufacturer may be able to exceed a "maximum feasible" industrywide standard for a particular model year because its CAFE is higher than that of the least capable manufacturer for that model year. For example, the agency recognizes that Ford may earn some credits in MY 1987 because its capability is higher than the standard, i.e., the level of least capable manufacturer with a substantial share of sales, GM. GM may do the same for MY 1988. It is also possible that a manufacturer may be able to exceed the "maximum feasible" level by taking certain actions that are not taken into account by the agency as part of "economic practicability," e.g., actions that may be so expensive in relation to CAFE benefit, or so uncertain, that the agency would not factor them into its determination of a manufacturer's CAFE capability. For example, in one of its comments to the docket, GM indicated that if the standards were set at 26.0 mpg, it might be able to generate enough credits to remain in compliance by taking measures it characterized as "very costly and contrary to expected consumer demand."

If GM is successful in its extraordinary efforts to offset its MY 1985 shortfall by exceeding MY 1987–88 standards, the credit provisions would have the effect intended by Congress of encouraging manufacturers to do more to improve fuel economy than they otherwise might. Moreover, NHTSA concludes that it would be particularly inappropriate to change its traditional method of setting standards at this time, for the purpose of somehow preventing particular manufacturers from earning credits. As discussed above and in the MY 1986 proceeding, GM and Ford failed to achieve a CAFE level of 27.5 mpg by MY 1985, and thus incurred the shortfalls, because their reasonable plans to meet the standard were overtaken by events beyond their control.

In this rulemaking, GM specifically argued that NHTSA should take into

account the industry's need to earn carryback credits to offset MY 1984–85 shortfalls in determining the maximum feasible average fuel economy levels for MY 1987–88. As noted above, NHTSA published an SNPRM requesting comment on a tentative conclusion by the agency that GM's argument concerning credits should be rejected. However, since NHTSA is basing this decision to establish the MY 1987–88 standards at 26.0 mpg on other grounds, the arguments set forth by GM do not need to be addressed here. The agency notes that if it did include GM's desire to earn carryback credits to offset its MY 1985 shortfall as part of the calculation of the MY 1987–88 standards, the record would dictate standards below 26.0 mpg for both model years.

NHTSA also notes that both GM and Ford argued as part of their comments on the SNPRM that the agency has the authority to retroactively amend the MY 1984–85 CAFE standards to the maximum feasible level, and urged the agency to Consider doing so. The requests to retroactively amend the MY 1984–85 standards are not being addressed in this notice.

6. Other Issues

CFAS argued that NHTSA should consider the issue of job losses associated with GM and Ford exporting American small car jobs to foreign countries. According to that commenter, higher CAFE standards could prevent such job losses.

As discussed above, in enacting EPCA, Congress was concerned that the fuel economy program could have directly encouraged increased importation of small, fuel-efficient cars. The domestic manufacturers were already importing some fuel-efficient cars, and Congress was concerned that the manufacturers might decide to meet fuel economy standards largely by increasing such imports. Therefore, Congress included the provision in EPCA requiring manufacturers to meet fuel economy standards separately for their imported and domestically manufactured fleets. While Congress did not want the fuel economy program to encourage imports directly, however, it also did not intend that CAFE standards could or should be set artificially high as a means of direct protectionism.

Moreover, the record does not support CFAS's argument that maintaining the 27.5 mpg standard for MY 1987–88 would increase American jobs. The economic reality is that small car jobs have been lost due to competition from foreign manufacturers which enjoy large cost advantages. Higher CAFE standards would not bring those jobs back. The domestic manufacturers are importing or planning to import additional small cars in response to that competition. If GM and Ford did not import particular small cars, other import manufacturers would likely import additional such cars. It is generally recognized, for example, that as the Japanese manufacturers concentrated on larger cars as a response to export restraints, Korean manufacturers moved into the smaller car market. Far from increasing American jobs, the agency's analysis indicates, as discussed above, that the actions GM and Ford would need to take to achieve CAFE of 27.5 mpg in MY 1987–88 would result in enormous job losses. NHTSA notes that even if some particular small car jobs could somehow be saved by a 27.5 mpg standard, the number of such jobs would be outweighed many times over by the job losses associated with restricting sales of larger cars and transferring production of larger cars outside the United States.

CEI argued that NHTSA has failed to consider the fact that as energy costs drop, the value of energy conservation also declines. That commenter suggested that the agency should estimate the cost per gallon saved as a percentage of fuel costs to illustrate what it called the "increasing absurdity of mandated savings of an increasingly inexpensive commodity." While, as discussed in the MY 1986 and earlier proceedings, the agency does not believe that the statutory criteria necessarily require fuel economy standards to be cost-beneficial, it has traditionally considered costs and benefits. As gasoline prices decline, it is true that the cost effectiveness of improving fuel economy also declines. However, as illustrated by DOE's comments, virtually all the fuel-efficiency-enhancing technologies being used by the manufacturers to improve their fuel economy remain cost effective, or at least cost neutral, even with the current very low price of gasoline.

As in the MY 1986 proceeding, Chrysler argued that reducing the MY 1987–88 standards is anti-competitive to those companies which are able to meet the standards. NHTSA recognizes the equity issues involved in amending fuel economy standards and has considered this factor. However, the agency must consider the feasibility of the standards for the industry as a whole, as discussed above, in accordance with the statutory criteria. Indeed, since the Act specifically permits the amendment of its previously set fuel economy standards, it necessarily contemplates the possibility of differing impacts on different manufacturers. Any change in a standard will result in varying impacts, because different manufacturers will be at different stages along varying paths toward complying with the previous standard. As in the MY 1986 proceeding, NHTSA believes that any impacts on Chrysler are heavily outweighed by the possibility of serious adverse economic consequences to the industry and economy as a whole if the standards were not reduced. The agency notes that the MY 1981 light truck standard was lowered in response to a petition for rulemaking submitted by Chrysler. Thus, that company has requested and received the benefit from the same type of rulemaking action to which it now objects.

Impact Analyses

1. Economic Impacts

The agency considered the economic implications of the amendments to the fuel economy standards made by this rule and determined that the rule is major within the meaning of Executive Order 12291, and significant within the meaning of the Department's regulatory procedures. The agency's detailed analysis of the economic effects is set forth in a final regulatory impact analysis, copies of which are available from the Docket Section. The contents of that analysis are generally described above.

2. Environmental Impacts

The agency has considered the environmental implications of these amendments to the MY 1987–88 passenger automobile average fuel economy standards in accordance with the National Environmental Policy Act of 1969 and determined that the amendment will not significantly affect the human environment. An Environmental Assessment (EA) was prepared and placed in the public docket in connection with the NPRM. A Supplement to the Environmental Assessment has been prepared, which responds to the comments received concerning the EA. Based on the agency's review of the comments and all available information, the agency has determined that this rulemaking action will not have a significant effect upon the environment.

3. Impacts on Small Entities

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact this rulemaking action will have on small entities. I certify that this action will not have a significant economic impact on a substantial number of small entities. Therefore, a

regulatory flexibility analysis is not required for this action. No passenger car manufacturer subject to the amended passenger automobile average fuel economy standards would be classified as a "small business" under the Regulatory Flexibility Act. In the case of small businesses, small organizations, and small governmental units which purchase passenger cars, the amendments will not affect the availability of fuel-efficient passenger cars or have a significant effect on the overall cost of purchasing and operating passenger cars.

Department of Energy Review

In accordance with section 502(j) of the Cost Savings Act, the agency submitted this final rule to the Department of Energy for review. There were no unaccommodated comments.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

PART 531—[AMENDED]

In consideration of the foregoing, 49 CFR Part 531 is amended as follows:

1. The authority citation for Part 531 is revised to read as follows:

Authority: 15 U.S.C. 2002, delegation of authority at 49 CFR 1.50.

2. The table in § 531.5(a) is revised to read as follows:

§ 531.5 Fuel economy standards.

(a) * * *

Model year	Average fuel economy standard (miles per gallon)
1978	18.0
1979	19.0
1980	20.0
1981	22.0
1982	24.0
1983	26.0
1984	27.0
1985	27.5
1986	26.0
1987	26.0
1988	26.0
1989 and thereafter	27.5

* * * * *

Issued on October 1, 1986.

Diane K. Steed,

Admininistrator.

[FR Doc. 86-22618 Filed 10-2-86; 10:00 am]

BILLING CODE 4910-59-M

federal register

Monday
October 6, 1986

Part IV

Office of Management and Budget

Congressional Budget Office

Revised Sequestration Report for Fiscal Year 1987—A Joint Report to the Congress of the United States

OFFICE OF MANAGEMENT AND BUDGET

CONGRESSIONAL BUDGET OFFICE

Revised Sequestration Report for Fiscal Year 1987—A Joint Report to the Congress of the United States

AGENCY: Office of Management and Budget, Congressional Budget Office.

ACTION: Report transmittal.

SUMMARY: This notice transmits the Revised Sequestration Report for Fiscal Year 1987 to the Congress of the United States in accordance with the provisions of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99–177.

BILLING CODE 3110-01-M

Congressional Budget Office
Congress of the United States

Office of Management and Budget
Executive Office of the President

October 6, 1986

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

In accordance with the alternative procedures of the Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office submit to you our revised Sequestration Report for Fiscal Year 1987.

The purpose of this report is to indicate whether and to what extent, as a result of laws enacted and regulations promulgated after the submission of our initial sequestration report, the excess deficit identified in our initial sequestration report of August 20 has been eliminated, reduced, or increased. The Balanced Budget Act requires the revised report to be based on the same economic and technical assumptions, employ the same methodologies, and utilize the same definition of the budget base and the same criteria and guidelines as those used for our initial sequestration report.

As of the close of business September 30, 1986, there have been no actions to change the budget estimates contained in our initial sequestration report. The average of our two deficit estimates for 1987 remains $163.4 billion, which is $19.4 billion greater than the maximum deficit amount of $144.0 billion specified by the Balanced Budget Act. Accordingly, the sequestration calculations required for our revised report, with certain exceptions, are identical to those contained in our initial report. These calculations were printed in the *Federal Register* of August 20, 1986 (Vol. 51, No. 161, Part VI, pages 29829-29899) and are submitted again by reference to this earlier report, with certain changes as set forth in Attachment A to this letter.

A number of legislative actions, however, are currently under way that, if enacted as expected, would reduce the estimated budget deficit for 1987 below $154 billion and avoid the need for a sequestration of budgetary resources.

With best wishes,

Sincerely yours,

Rudolph G. Penner
Director
Congressional Budget Office

James C. Miller III
Director
Office of Management and Budget

Enclosure

IDENTICAL LETTERS SENT TO HONORABLE THOMAS P. O'NEILL JR., HONORABLE PETE V. DOMENICI, HONORABLE WILLIAM H. GRAY III

ATTACHMENT A
REVISIONS TO THE INITIAL SEQUESTRATION REPORT
FOR FISCAL YEAR 1987

The Insular Areas Regulation Act (P.L. 99-396) was signed into law on August 27. Section 19 of the act requires that Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands be paid the full amounts required under the laws establishing their relationships with the United States, notwithstanding the Balanced Budget Act. While the provision does not amend the instructions to the Directors in the Balanced Budget Act with regard to preparation of their joint report, the Directors assume that it has the effect of exempting these payments from sequestration. Listed below are the initial and revised sequestration calculations for the affected budget accounts.

	OMB	CBO	Average	Sequester
	(In thousands of dollars)			
Department of the Interior				
Office of Territorial Affairs				
Administration of territories (10-82-0412-X-1-806-A; 14-0412)				
Initial				
Budget Authority	76,459	76,459	76,459	5,811
Outlays	66,195	60,938	63,566	4,831
Revised				
Budget Authority	49,925	49,925	49,925	3,794
Outlays	39,661	35,840	37,750	2,869
Payments to the United States territories, fiscal assistance (10-82-0418-X-1-852-A; 14-0418)				
Initial				
401(c) authority	65,000	62,340	63,670	4,839
Outlays	65,000	62,340	63,670	4,839
Revised				
401(c) authority	0	0	0	0
Outlays	0	0	0	0
Department of the Treasury				
United States Customs Service				
Miscellaneous permanent appropriations (15-15-9922-X-2-852-A; 20-9922)				
Initial				
401(c) other	112,314	114,770	113,542	8,629
Outlays	99,283	107,425	103,354	7,855
Revised				
401(c) other	0	0	0	0
Outlays	0	0	0	0
Internal Revenue Service				
Internal revenue collections for Puerto Rico (15-45-5737-X-2-852-A; 20-5737)				
Initial				
401(c) other	255,535	255,535	255,535	19,421
Outlays	226,582	254,292	240,437	18,273
Revised				
401(c) other	0	0	0	0
Outlays	0	0	0	0

[FR Doc. 86-22773 Filed 10-3-86; 1:10 pm]
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LIST OF PUBLIC LAWS

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-275-3030).

H.R. 3358/Pub. L. 99-432

To reauthorize the Atlantic Striped Bass Conservation Act, and for other purposes. (Oct. 1, 1986; 100 Stat. 989; 3 pages) Price: $1.00

H.R. 3622/Pub. L. 99-433

Goldwater-Nichols Department of Defense Reorganization Act of 1986. (Oct. 1, 1986; 100 Stat. 992; 85 pages) Price: $2.50

H.J. Res. 743/Pub. L. 99-434

Making continuing appropriations for the fiscal year 1987, and for other purposes. (Oct. 1, 1986; 100 Stat. 1076; 4 pages) Price: $1.00

CFR CHECKLIST

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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1986. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[3] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[4] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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